

CM-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Frank S. Moore, SBN 158029</b> <b>Law Offices of Frank S. Moore, APC</b> <b>1374 Pacific Avenue</b> <b>San Francisco, California 94109</b> <b>TELEPHONE NO.: 415 292-6091</b> <b>FAX NO. (Optional): 415 292-6695</b> <b>E-MAIL ADDRESS (Optional): fsmoore@pacbell.net</b> <b>ATTORNEY FOR (Name): PURGATORY, INC., dba LA ROCCA'S CORNER</b>		FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> San Francisco <b>STREET ADDRESS:</b> 400 McAllister Street <b>MAILING ADDRESS:</b> <b>CITY AND ZIP CODE:</b> San Francisco, California 94102 <b>BRANCH NAME:</b> Unlimited Jurisdiction		
<b>PLAINTIFF/PETITIONER:</b> CRAIG YATES et al.		<b>CASE NUMBER:</b> <b>CGC-07-469605</b>
<b>DEFENDANT/RESPONDENT:</b> LA ROCCA'S CORNER, et al.		<b>JUDICIAL OFFICER:</b> <b>Hon. David L. Ballati</b>
<b>NOTICE OF RELATED CASE</b>		<b>DEPT.:</b> <b>206</b>

Identify, in chronological order according to date of filing, all cases related to the case referenced above.

1. a. Title: **Ashley, et al v. Blackwell, et al**  
b. Case number: **2:1999cv01669-FCD**  
c. Court:  same as above  
 other state or federal court (name and address): **United States District Court for the Eastern District**  
d. Department: **501 "I" Street, Sacramento, CA 95814**  
e. Case type:  limited civil  unlimited civil  probate  family law  other (specify):  
f. Filing date: **08/27/1999**  
g. Has this case been designated or determined as "complex"?  Yes  No  
h. Relationship of this case to the case referenced above (check all that apply):  
 involves the same parties and is based on the same or similar claims.  
 arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.  
 involves claims against, title to, possession of, or damages to the same property.  
 Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.  
 Additional explanation is attached in attachment 1X 2
- i. Status of case:  
 pending  
 dismissed  with  without prejudice  
 disposed of by judgment
2. a. Title: **Pickern, et al v. Eppie's Capitol, et al**  
b. Case number: **2:2000cv02231-WBS**  
c. Court:  same as above  
 other state or federal court (name and address): **United States District Court for the Eastern District**  
d. Department: **501 "I" Street, Sacramento, CA 95814**

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PLAINTIFF/PETITIONER: CRAIG YATES et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: LA ROCCA'S CORNER, et al.	CGC-07-469605

## 2. (continued)

e. Case type:  limited civil  unlimited civil  probate  family law  other (specify):

f. Filing date: 10/12/2000

g. Has this case been designated or determined as "complex"?  Yes  No

h. Relationship of this case to the case referenced above (check all that apply):

- involves the same parties and is based on the same or similar claims.
- arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
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Additional explanation is attached in attachment ~~X~~ 2

## i. Status of case:

- pending
- dismissed  with  without prejudice
- disposed of by judgment

## 3. a. Title: Connally, et al v. Eppie's N Street, et al

b. Case number: 2:2000cv02232-WBS

c. Court:  same as above other state or federal court (name and address): United States District Court for the Eastern District

d. Department: 501 "I" Street, Sacramento, CA 95814

e. Case type:  limited civil  unlimited civil  probate  family law  other (specify):

f. Filing date:

g. Has this case been designated or determined as "complex"?  Yes  No

h. Relationship of this case to the case referenced above (check all that apply):

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- is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

Additional explanation is attached in attachment ~~X~~ 2

i. Status of case:

- pending
- dismissed  with  without prejudice
- disposed of by judgment

1

4.  Additional related cases are described in Attachment ~~X~~ Number of pages attached: 102 (not including proof of service)

Date: August 28, 2008

Frank S. Moore

(TYPE OR PRINT NAME OF PARTY OR ATTORNEY)

(SIGNATURE OF PARTY OR ATTORNEY)

PLAINTIFF/PETITIONER: <b>CRAIG YATES et al.</b>	CASE NUMBER:
DEFENDANT/RESPONDENT: <b>LA ROCCA'S CORNER, et al.</b>	<b>CGC-07-469605</b>

ATTACHMENT (Number): 1 Page 1 of 38

*(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

**A. List All Related Civil Cases by Court, Case Name, Case Number and Filing Date.**

**Plaintiff:** YATES, CRAIG

Court: **San Francisco County Superior Court**  
**400 McAllister Street, San Francisco, California, 94102**

None of the cases listed below have been designated or determined as "complex."

Relationship of this case to the case referenced above (check all that apply):

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Additional explanation is attached in attachment 2.

<u>Case Number</u>	<u>Case Name</u>	<u>Filing Date</u>	<u>Status/Dismissal</u>
CGC-06-452090	CRAIG YATES et al vs. CIGAR AMOUR et al	05/09/2006	Pending
CGC-06-452131	CRAIG YATES et al vs. JUST DESERTS et al	05/10/2006	05/02/2007
CGC-06-452509	CRAIG YATES et al vs. THE ABBEY TAVERN INC., A CALIFORNIA CORPORATION et al	05/23/2006	03/05/2008
CGC-06-456662	CRAIG YATES et al vs. DRAGON CITY RESTAURANT et al	10/02/2006	01/14/2008
CGC-06-459119	CRAIG YATES et al vs. PAKWAN RESTAURANT et al	12/28/2006	Pending

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**

4 CGC-07-469605

5 **ATTACHMENT** (Number): 1 Page 2 of 38

6 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

7 CGC-07-467642 CRAIG YATES et al vs. RICO'S  
8 RESTAURANT INC., A CALIFORNIA  
9 CORPORATION et al

10 09/27/2007 Pending

11 CGC-07-469073 CRAIG YATES et al vs. K &L  
12 RESTAURANT et al

13 11/09/2007 Pending

14 CGC-08-470951 CRAIG YATES et al vs. CANDystore  
15 COLLECTIVES,LLC A CALIFORNIA  
16 LIMITED et al

17 01/10/2008 Pending

18 CGC-08-473176 CRAIG YATES vs. UNION SQUARE et al

19 03/11/2008 Pending

20 CGC-08-473260 CRAIG YATES et al vs. DA FLORA  
21 RESTAURANT et al

22 03/13/2008 Pending

23 CGC-08-473716 CRAIG YATES et al vs. BENJARONG  
24 THAI CUISINE et al

25 03/27/2008 Pending

26 Court: **San Francisco County Superior Court  
400 McAllister Street, San Francisco, California, 94102**27 Plaintiff: **DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES:  
HELPING YOU HELP OTHERS**

28 None of the cases listed below have been designated or determined as "complex."

Relationship of this case to the case referenced above (check all that apply):

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1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 1 Page 3 of 38**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	Case Number	Case Name	Filing Date	Status/Dismissal
CGC-05-443089	LES JANKEY et al vs. QUEEN ANNE HOTEL et al	07/13/2005	11/02/2006																						
CGC-05-443128	LES JANKEY et al vs. HERITAGE MARINA HOTEL et al	07/14/2005	Pending																						
CGC-05-443154	LES JANKEY et al vs. MARK TWAIN HOTEL et al	07/15/2005	07/13/2007																						
CGC-05-443179	LES JANKEY et al vs. EL HERRADERO RESTAURANT et al	07/18/2005	11/16/2006																						
CGC-06-452092	LES JANKEY et al vs. THE BLUE MUSE RESTAURANT et al	05/09/2006	08/09/2007																						
CGC-06-452098	NICOLE MOSS et al vs. RED JADE RESTAURANT et al	05/10/2006	01/31/2007																						
CGC-06-452101	PATRICK CONNALLY et al vs. TWILIGHT ZONE et al	05/10/2006	12/26/2007																						
CGC-06-452129	PATRICK CONNALLY et al vs. NORTH BEACH PIZZA INC. A CALIFORNIA CORPORATION et al	05/10/2006	05/04/2007																						
CGC-06-452130	LES JANKEY et al vs. ASA SUSHI et al	05/10/2006	12/12/2007																						
CGC-06-452131	CRAIG YATES et al vs. JUST DESERTS et al	05/10/2006	05/02/2007																						
CGC-06-452133	NICOLE MOSS et al vs. ROYAL GROUND COFFEE et al	05/10/2006	06/07/2007																						
CGC-06-452509	CRAIG YATES et al vs. THE ABBEY TAVERN INC., A CALIFORNIA CORPORATION et al	05/23/2006	03/05/2008																						
CGC-06-452983	LES JANKEY et al vs. LAUREL INN ASSOCIATES LLC, A CALIFORNIA LIMITED et al	06/08/2006	02/20/2007																						

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT** (Number): 1 Page 4 of 38

6 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

7	CGC-06-454493	PATRICK CONNALLY et al vs. O'REILLY'S IRISH PUB & RESTAURANT INC. et al	07/25/2006	Pending
8	CGC-06-455148	LES JANKEY et al vs. TIA MARGARITA et al	08/15/2006	01/25/2008
9	CGC-06-455150	PATRICK CONNALLY et al vs. SZECHUAN TASTE RESTAURANT et al	08/15/2006	02/15/2008
10	CGC-06-457253	PATRICK CONNALLY et al vs. LUISA'S RESTORANTE et al	10/23/2006	Pending
11	CGC-06-459119	CRAIG YATES et al vs. PAKWAN RESTAURANT et al	12/28/2006	Pending
12	CGC-07-459698	LES JANKEY et al vs. THE HOTEL MAJESTIC et al	01/18/2007	07/13/2007
13	CGC-07-462659	LES JANKEY vs. GLASS PROPERTIES LP, A DELEWARE LIMITED et al	04/24/2007	05/05/2008
14	CGC-07-463040	LES JANKEY et al vs. SONG KOO LEE et al	05/03/2007	Pending
15	CGC-07-464669	NICOLE MOSS et al vs. MOLTE COSE et al	06/27/2007	Pending
16	CGC-07-469073	CRAIG YATES et al vs. K &L RESTAURANT et al	11/09/2007	Pending
17	CGC-07-469631	PATRICK CONNALLY et al vs. GRAFFEO COFFEE ROASTING COMPANY, INC., A et al	11/30/2007	Pending
18	CGC-07-470559	PATRICK CONNALLY et al vs. XOX TRUFFLES, INC., A CALIFORNIA CORPORATION et al	12/31/2007	Pending
19	CGC-08-470951	CRAIG YATES et al vs. CANDystore COLLECTIVES,LLC A CALIFORNIA LIMITED et al	01/10/2008	Pending

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 1 Page 5 of 38**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

7 CGC-08-470953	PATRICK CONNALLY et al vs. PETITE DELI et al	01/10/2008	Pending
8 CGC-08-472709	PATRICK CONNALLY et al vs. SUSHI ON NORTH BEACH-KATSU et al	02/28/2008	Pending
9 CGC-08-473260	CRAIG YATES et al vs. DA FLORA RESTAURANT et al	03/13/2008	Pending
10 CGC-08-473716	CRAIG YATES et al vs. BENJARONG THAI CUISINE et al	03/27/2008	Pending
11 CGC-08-474085	LES JANKEY et al vs. PLOUGH AND THE STARS, INC., A CALIFORNIA et al	04/09/2008	Pending
12 CGC-08-474557	LES JANKEY et al vs. HAWTHORNE/STONE REAL ESTATE INVESTMENTS, INC et al	04/23/2008	Pending

13 Court: **San Mateo County Superior Court  
400 County Center, Redwood City, California, 94063**

14 Plaintiff: **DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES:  
HELPING YOU HELP OTHERS**

15 None of the cases listed below have been designated or determined as "complex."

16 Relationship of this case to the case referenced above (check all that apply):

- 17  involves the same parties and is based on the same or similar claims.
- 18  arises from the same or substantially identical transactions, incidents, or events  
19 requiring the determination of the same or substantially identical questions of law or  
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- 23  Additional explanation is attached in attachment 2.

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

2 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**

CGC-07-469605

3 **ATTACHMENT** (Number): 1 Page 6 of 38

4 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

5 **Case Number** **Case Name** **Filing Date** **Status/Dismissal**  
6 CIV456401 MARSHALL LOSKOT, et al vs. AIRPORT  
7 NO. TRAVELODGE 07/24/2006 Pending8 Court: **Marin County Superior Court**  
9 **3501 Civic Center Drive Room #116, San Rafael, CA 94903**10 Plaintiff: **YATES, CRAIG**

11 None of the cases listed below have been designated or determined as "complex."

12 Relationship of this case to the case referenced above (check all that apply):

- 13  involves the same parties and is based on the same or similar claims.
- 14  arises from the same or substantially identical transactions, incidents, or events  
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- 19  Additional explanation is attached in attachment 2.

<b>Case Number</b>	<b>Case Name</b>	<b>Filing Date</b>	<b>Status/Dismissal</b>
CIV053454	CRAIG YATES, et al vs WOODSIDE OFFICE CENTER L.L.C., et al	7/28/2005	9/7/2005
CIV061583	CRAIG YATES, et al vs CAPRA'S RESTAURANT INC., et al	4/7/2006	4/10/2007
CIV062007	CRAIG YATES, et al. vs. VIKING BAR CORPORATION, et al.	5/12/2006	1/18/2008
CIV062223	CRAIG YATES, et al vs VIKING BAR CORPORATION, et al	5/22/2006	6/12/2006
CIV064664	CRAIG YATES, et al vs PETER PAN DOUGHNUTS, et al	10/19/2006	1/31/2008

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

2 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**

CGC-07-469605

3 **ATTACHMENT** (Number): 1 Page 7 of 38

4 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

5 CIV071909 CRAIG YATES, et al. VS. MING YEN  
6 RESTAURANT, et al. 4/24/2007 4/23/20087 Court: **Marin County Superior Court  
3501 Civic Center Drive Room #116, San Rafael, CA 94903**9 Plaintiff: **DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES:  
HELPING YOU HELP OTHERS**

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19	<u>Case Number</u>	<u>Case Name</u>	<u>Filing Date</u>	<u>Status/Dismissal</u>
20	CIV053454	CRAIG YATES, et al vs WOODSIDE OFFICE CENTER L.L.C., et al	7/28/2005	9/7/2005
21	CIV061134	PATRICK CONNALLY, et al. vs TACO JANE'S, et al	3/17/2006	11/1/2007
22	CIV061583	CRAIG YATES, et al vs CAPRA'S RESTAURANT INC., et al	4/7/2006	4/10/2007
23	CIV062007	CRAIG YATES, et al. vs. VIKING BAR CORPORATION, et al.	5/12/2006	1/18/2008
24	CIV062191	PATRICK CONNALLY, et al vs PEPPER'S RESTAURANT, et al	5/18/2006	4/17/2008
25	CIV062650	PATRICK CONNALLY, et al vs CHAI W. CHAN, et al	6/16/2006	6/6/2007

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT** (Number): 1 Page 8 of 386 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*7 CIV064664 CRAIG YATES, et al vs PETER PAN  
8 DOUGHNUTS, et al 10/19/2006 1/31/20089 CIV071909 CRAIG YATES, et al. vs. MING YEN  
10 RESTAURANT, et al. 4/24/2007 4/23/200811 CIV072045 PATRICK CONNALLY, et al. vs.  
12 SHAPIRO ASSOCIATES 5/1/2007 3/14/200813 Court: **United States District Court for the Northern District of California**  
14 **450 Golden Gate Ave., San Francisco, California 94102**  
15 **1301 Clay Street, Oakland, California 94612-5212**  
16 **280 South 1st Street, San Jose, California 95113**17 Plaintiff: **YATES, CRAIG**

18 None of the cases listed below have been designated or determined as "complex."

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<u>Case Number</u>	<u>Case Name</u>	<u>Filing Date</u>	<u>Status/Dismissal</u>
3:2004cv04308-BZ	Yates et al v. Associated Main Street Partners, et al	10/12/2004	06/30/2005
3:2004cv05087-JCS	Yates et al v. Nicolai Building et al	12/01/2004	05/13/2005
3:2004cv05211-PJH	Yates et al v. Heller's For Children Inc. et al	12/09/2004	09/14/2005
3:2005cv03610-JL	Yates et al v. Woodside Office Center, L.L.C. et al	09/07/2005	09/01/2006

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

2 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**

CGC-07-469605

3 **ATTACHMENT** (Number): 1 Page 9 of 38

4 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

5	3:2006cv07917-MMC	Yates et al v. Napa Valley Casino et al	12/27/2006	01/17/2008
6	3:2007cv00460-WHA	Yates et al v. Petco Animal Supplies Stores, Inc.	01/23/2007	01/02/2008
7	3:2007cv00946-CRB	Yates et al v. Celia's Restaurants Corporation et al	02/14/2007	05/08/2008
8	3:2007cv01403-MHP	Yates et al v. New Tin's Market et al	03/09/2007	03/06/2008
9	3:2007cv01405-WHA	Yates et al v. Belli Deli et al	03/09/2007	Pending
10	3:2007cv01566-PJH	Yates et al v. The Cheese Steak Shop Inc. et al	03/19/2007	08/28/2007
11	3:2007cv02100-JSW	Yates et al v. Foster Freeze Berkeley et al	04/13/2007	Pending
12	3:2007cv02525-MMC	Yates et al v. D & A Cafe Inc et al	05/11/2007	05/16/2008
13	3:2007cv02657-JL	Yates et al v. Winter Properties et al	05/18/2007	Pending
14	3:2007cv03033-EDL	Yates et al v. El Sombrero et al	06/12/2007	Pending
15	3:2007cv03326-MMC	Yates et al v. Bimbo Bakeries USA, Inc. et al	06/25/2007	12/27/2007
16	4:2007cv03889-WDB	Yates et al v. Lotus Cuisine of India et al	07/30/2007	06/05/2008
17	3:2007cv04177-EDL	Yates et al v. Discount Alley Inc. et al	08/14/2007	Pending
18	3:2007cv04395-JCS	Yates et al v. Red's Recovery Room Inc. et al	08/24/2007	Pending
19	3:2007cv05485-MMC	Yates et al v. N-O-H-R Plaza et al	10/26/2007	Pending
20	3:2007cv06498-WHA	Yates et al v. Levin Commercial Facility et al	12/28/2007	Pending
21	3:2008cv00356-JSW	Yates et al v. Unicorn Pan Asian Cuisine et al	01/18/2008	Pending
22	3:2008cv00737-JCS	Yates et al v. Burger King #3157 et al	01/31/2008	Pending
23	3:2008cv01877-WHA	Yates et al v. King of Thai Noodle #2 Inc. et al	04/08/2008	Pending
24				
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27				
28				

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT** (Number): 1 Page 10 of 386 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

7 3:2008cv01958-JCS	Yates et al v. Sweet Delight et al	04/14/2008	Pending
8 3:2008cv02165-SI	Yates et al v. Twice is Nice et al	04/25/2008	Pending
9 3:2008cv02293-PJH	Yates et al v. Zephyr Cafe et al	05/02/2008	Pending
10 4:2008cv02545-CW	Yates et al v. Sushi Bistro Inc et al	05/20/2008	Pending
11 3:2008cv02734-SI	Yates et al v. Syers Properties LLP	05/30/2008	No appearance by defendant
12 3:2008cv02932-JL	Yates et al v. Benjarong Thai Cuisine et al	06/12/2008	Pending
13 3:2008cv03004-EDL	Yates et al v. Franklin Arden LLC	06/18/2008	Pending
14 3:2008cv03183-BZ	Yates et al v. Happy Dragon et al	07/02/2008	No appearance by defendant
15 4:2008cv03914-CW	Yates et al v. Tequila Grill et al	08/15/2008	Not served

16 Court: **United States District Court for the Northern District of California**  
**450 Golden Gate Ave., San Francisco, California 94102**  
**1301 Clay Street, Oakland, California 94612-5212**  
**280 South 1st Street, San Jose, California 95113**

19 Plaintiff: **DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES:**  
**HELPING YOU HELP OTHERS**

20 None of the cases listed below have been designated or determined as "complex."

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2 CASE NUMBER:

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4 CGC-07-469605

5 **ATTACHMENT** (Number): 1 Page 11 of 38

6 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	Case Number	Case Name	Filing Date	Status/Dismissal
3:2000cv04298-WHA	Cone, et al v. Sequoia Grove	11/17/2000	09/10/2001																						
3:2000cv04352-TEH	Cone, et al v. Sonoma Valley Visit	11/20/2000	10/24/2001																						
3:2000cv04353-PJH	Ray, et al v. Comfort Inn, et al	11/20/2000	06/14/2001																						
3:2001cv00489-SI	Jankey, et al v. Hotel Del Sol, et al	01/30/2001	09/13/2001																						
4:2001cv00488-CW	Cone, et al v. Napa Valley Marriott, et al	01/30/2001	08/31/2001																						
4:2001cv00320-WDB	Pickern, et al v. City of Eureka, et al	01/19/2001	10/22/2001																						
3:2001cv00673-MMC	Pickern, et al v. Willow Creek 76, Inc	02/13/2001	10/02/2001																						
3:2001cv00675-MJJ	Pickern, et al v. Chevron Willow Creek, et al	02/13/2001	06/20/2001																						
3:2001cv00680-PJH	Ray, et al v. Pacific Motor Inn, et al	02/13/2001	05/23/2002																						
4:2001cv00828-CW	Doran, et al v. Balboa Cafe, et al	02/26/2001	09/24/2001																						
3:2001cv00829-SI	Doran, et al v. Rendezvous Cafe, et al	02/26/2001	09/13/2002																						
3:2001cv01667-JL	D'Lil et al v. Bijou Associates LLC et al	04/30/2001	03/15/2002																						
3:2001cv01739 -JCS	Doran et al v. Wilson & Kratzer Mortuaries, Inc.	05/03/2001	03/28/2002																						
3:2001cv02111-JL	Pickern et al v. Napa Auto Parts Eureka Store et al	05/31/2001	01/11/2002																						
3:2001cv02112-SI	Pickern et al v. Fresh Freeze Supply, Inc.	05/31/2001	01/29/2002																						
3:2001cv01741-CRB	Connally et al v. Bahia Business Center et al	05/03/2001	05/14/2002																						
3:2001cv01808-MMC	Kone et al v. Zandonella Reporting Service, Inc. et al	05/09/2001	06/17/2002																						
5:2001cv20401-RS	Samuel et al v. E Z 8 Motels Inc et al	05/10/2001	09/18/2001																						
3:2001cv02168-PJH	Gerber et al v. La Scala Inn et al	06/04/2001	05/23/2002																						
4:2001cv02202-CW	Pickern et al v. Best Western Inn at the Square et al	06/06/2001	04/26/2002																						

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5	3:2001cv02237-VRW	Loskot, et al -v- Sea Captain Motel, et al	06/07/2001	02/03/2003
6	3:2001cv02777-CRB	Taubold et al v. City of Fort Bragg	07/20/2001	03/31/2004
7	3:2001cv03145-PJH	Connally et al v. Fast Eddie's Style Bar B-Que et al	08/15/2001	10/03/2002
8	3:2001cv03268-PJH	Doran et al v. Redwood Inn et al	08/27/2001	10/28/2002
9	3:2001cv03348-JCS	Moeller et al v. Benihana Restaurant Burlingame et al	09/04/2001	09/23/2002
10	4:2001cv03412-SBA	Doran et al v. Quality Inn Eureka et al	09/07/2001	05/23/2002
11	3:2001cv03866-VRW	Loskot et al v. Broadway Manor Inn et al	10/12/2001	04/24/2003
12	3:2001cv04016-VRW	Doran et al v. Capri Motel et al	10/25/2001	06/28/2002
13	3:2001cv05227-JL	Doran et al v. Premier Inns Concord et al	12/26/2001	04/29/2002
14	3:2001cv05228-MMC	Doran et al v. Nantucket Restaurant et al	12/26/2001	05/14/2002
15	3:2001cv05364-JL	Doran et al v. China King Restaurant et al	12/27/2001	08/08/2002
16	4:2002cv00229-WDB	Doran et al v. Mill Valley Travelodge et al	01/14/2002	03/18/2003
17	4:2002cv01554-CW	Loskot et al v. Zack's Family Restaurant and Catering et al	04/01/2002	10/28/2003
18	3:2002cv01881-PJH	Doran et al v. Vogue Cleaners, Inc. et al	04/18/2002	10/02/2002
19	3:2002cv01961-EDL	Doran et al v. Embassy Suites Hotel et al	04/22/2002	06/16/2003
20	3:2002cv02666-CRB	Doran et al v. Pacific Heights Inn et al	06/04/2002	11/05/2003
21	3:2002cv03341-CRB	Connally et al v. West End Shopping Center et al	07/11/2002	04/25/2003
22	3:2002cv03260-PJH	Doran et al v. Francisco Bay Inn et al	07/09/2002	09/04/2003
23	3:2002cv03261-JCS	Doran et al v. Bel Aire Properties	07/09/2002	10/17/2003
24	3:2002cv04138-CRB	Ashley et al v. Presidio Inn et al	08/28/2002	05/15/2003
25	3:2002cv04536-EDL	Cone et al v. Sonoma Cheese Factory LLC et al	09/18/2002	08/15/2003

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5	4:2002cv04537-CW	Loskot et al v. Polk Street Econo Lodge et al	09/18/2002	12/18/2003
6	3:2002cv04543-EDL	Doran et al v. Concord Best Western Heritage Inn et al	09/18/2002	05/12/2003
7	3:2002cv04545-MJJ	Jankey et al v. Castle Inn et al	09/18/2002	03/22/2004
8	5:2002cv05269-JF	Cone et al v. Los Altos Restaurant et al	11/01/2002	05/13/2003
9	3:2002cv05448-VRW	Cone et al v. Broiler Express et al	11/18/2002	09/08/2003
10	3:2002cv05463-JL	Loskot et al v. Pizzeria Uno Lombard, Inc.	11/18/2002	03/02/2004
11	5:2002cv05503-JF	Wells et al v. Wildhorse Cafe et al	11/19/2002	07/29/2003
12	5:2002cv05507-PVT	Wells et al v. Beacon King City Truck Plaza et al	11/19/2002	07/14/2003
13	5:2002cv05947-SI	Connally et al v. Sebt Mall et al	12/26/2002	09/15/2004
14	5:2003cv00018-HRL	Molski et al v. Camelot Restaurant et al	01/02/2003	09/08/2003
15	3:2003cv00192-WHA	Doran et al v. Newell Avenue Strip Mall et al	01/13/2003	12/09/2003
16	3:2003cv00348-MEJ	Doran et al v. Pane E. Vino Restaurant et al	01/27/2003	07/07/2003
17	3:2003cv00675-MJJ	Brooke et al v. Bell Market Novato et al	02/18/2003	08/11/2004
18	3:2003cv01370-JL	Connally et al v. Hunan Restaurant et al	03/31/2003	12/11/2003
19	3:2003cv01134-JSW	Doran et al v. Montecatini Ristorante, Inc. et al	03/17/2003	01/06/2004
20	4:2003cv01181-CW	Connally et al v. Kinko's Inc. et al	03/19/2003	01/15/2004
21	3:2003cv01190-CRB	Doran et al v. C.C. Ole's Mexican Restaurant et al	03/19/2003	01/29/2004
22	3:2003cv01387-JL	Connally et al v. Court Square Center et al	04/01/2003	02/09/2004
23	3:2003cv01491-BZ	Doran et al v. Richardson Economy Inn et al	04/08/2003	06/25/2004
24	4:2003cv01762-WDB	Wilson et al v. Longs Drugs Store et al	04/21/2003	11/16/2004
25	3:2003cv01796-WHA	Doran et al v. Franklin Building et al	04/22/2003	01/28/2004

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5	3:2003cv01913-VRW	Wilson et al v. Trancas mall et al	04/28/2003	09/05/2003
6	3:2003cv02427-VRW	Doran et al v. Antioch Heritage Inn et al	05/22/2003	08/27/2004
7	3:2003cv02428-MMC	Doran et al v. Casper's Hot Dogs et al	05/22/2003	12/19/2003
8	3:2003cv02639-MMC	Doran et al v. Holiday Inn Express Brentwood et al	06/05/2003	01/29/2004
9	3:2003cv02641-PJH	Doran et al v. Days Inn Geary Street et al	06/05/2003	05/11/2004
10	3:2003cv02697-MJJ	Loskot et al v. Best Inn El Cerrito et al	06/10/2003	02/23/2004
11	3:2003cv02837-MEJ	Harris et al v. Crescent City Days Inn. et al	06/17/2003	02/17/2004
12	3:2003cv02895-VRW	Loskot et al v. Taqueria Mexican Grill et al	06/23/2003	03/29/2005
13	3:2003cv02902-MJJ	Harris et al v. Curly Redwood Lodge, LLC	06/23/2003	09/23/2004
14	3:2003cv02904-MHP	Harris et al v. Denny's Crescent City et al	06/23/2003	10/05/2004
15	3:2003cv03530-SI	Harris et al v. Ghiradelli Square Travelodge et al	07/29/2003	08/13/2004
16	3:2003cv04241-MEJ	Doran et al v. Huntington Hotel et al	09/17/2003	06/14/2004
17	3:2003cv04329-JCS	Connally et al v. Magnolia Center et al	09/24/2003	08/10/2004
18	3:2003cv04688-JCS	Connally et al v. Jim Corbet's Ace Hardware et al	10/17/2003	08/10/2004
19	3:2003cv04702-JSW	Doran et al v. Seal Rock Inn et al	10/20/2003	01/31/2005
20	4:2003cv04902-SBA	Loskot et al v. Ramada Inn Oakland et al	11/03/2003	05/19/2005
21	3:2003cv04990-JCS	Connally et al v. West America Bank et al	11/10/2003	08/10/2004
22	3:2003cv05049-JCS	Connally et al v. Mc Leran Properties et al	11/13/2003	08/10/2004
23	3:2003cv05243-MEJ	Stickney et al v. Giant Chef Burger, Inc. et al	11/24/2003	06/16/2005
24	3:2003cv05485-SI	Moss et al v. Hearst Parking Center et al	12/04/2003	08/03/2004
25	3:2003cv05571-SI	Connally et al v. Sebt Mall et	12/11/2003	08/04/2004

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5	3:2004cv00826-MJJ	Doran et al v. Jackson's Wine and Spirits et al	02/27/2004	11/29/2004
6	3:2004cv01128-BZ	Wilson et al v. Ring's Restaurant et al	03/22/2004	08/26/2004
7	3:2004cv01129-CRB	Loskot et al v. Best Western Carriage Inn et al	03/22/2004	08/23/2004
8	3:2004cv01217-PJH	Connally et al v. Pacific Lumber and Hardware et al	03/26/2004	09/13/2004
9	3:2004cv01241-TEH	Connally et al v. Three Dragons Restaurant et al	03/29/2004	10/27/2004
10	3:2004cv01313-CRB	Connally et al v. Entenmann's Inc. et al	04/05/2004	06/29/2004
11	3:2004cv01314-JL	Connally et al v. Woodger Trust Building et al	04/05/2004	09/07/2004
12	3:2004cv01356-JL	Loskot et al v. Holiday Inn Concord et al	04/07/2004	01/19/2005
13	4:2004cv01443-CRB	Connally et al v. Entenmann's Inc. et al	04/13/2004	08/25/2004
14	3:2004cv01488-VRW	Connally et al v. Celia's Mexican Restaurant et al	04/15/2004	01/31/2005
15	3:2003cv01192-SI	Doran et al v. Corte Madera Inn Best Western et al	04/22/2004	06/01/2004
16	3:2004cv01606-VRW	Cone et al v. Healdsburg Travelodge et al	04/26/2004	02/23/2005
17	3:2004cv01607-WHA	Loskot et al v. Pete's Henny Penny et al	04/26/2004	07/05/2005
18	3:2004cv01725-JSW	Cone et al v. Dry Creek Inn Ltd. Partnership	05/03/2004	04/06/2005
19	5:2004cv01852-PVT	Molski et al v. Lupita et al	05/11/2004	01/04/2005
20	3:2004cv01854-BZ	Molski et al v. Pump N Go et al	05/11/2004	02/03/2005
21	5:2004cv01880-RMW	Molski et al v. The Cove et al	05/12/2004	04/21/2005
22	5:2004cv01881-PVT	Molski et al v. Rapazzini Winery et al	05/12/2004	02/09/2006
23	5:2004cv01882-PVT	Molski et al v. El 7 Mares Restaurant et al	05/12/2004	06/17/2005

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5:2004cv01942-RS	Molski et al v. Longhouse Restaurant, Inc. et al	05/18/2004 02/10/2005
5:2004cv01943-RMW	Molski et al v. Elaine M. West et al	05/18/2004 10/21/2005
5:2004cv01941-JF	Molski et al v. Toro Petroleum et al	05/18/2004 02/08/2005
5:2004cv01945-JW	Molski et al v. Morgan Hill 76 et al	05/18/2004 10/12/2005
5:2004cv01947-RMW	Molski et al v. Casa Medina et al	05/18/2004 08/24/2007
5:2004cv01981-PVT	Molski et al v. Casa De Fruta, L.P., et al	05/20/2004 03/07/2005
5:2004cv01983-RMW	Molski et al v. Roy's Drive-In et al	05/20/2004 11/18/2004
5:2004cv01984-JW	Molski et al v. Albertson's, Inc.,	05/20/2004 10/19/2005
5:2004cv01985-HRL	Molski et al v. La Rochelle et al	05/20/2004 07/29/2005
5:2004cv02118-HRL	Molski et al v. Georis Winery et al	05/28/2004 04/06/2005
5:2004cv02164-PVT	Molski et al v. Heller Estates, Inc. et al	06/02/2004 07/26/2005
5:2004cv02165-HRL	Molski et al v. Bernardus, LLC et al	06/02/2004 07/01/2005
3:2001cv02203-EDL	Doran et al v. Star Motel et al	06/06/2001 10/02/2002
5:2004cv02222-JW	Molski et al v. Gilroy Bowl et al	06/07/2004 02/08/2006
5:2004cv02223-RMW	Molski et al v. Running Iron Bar & Restaurant et al	06/07/2004 10/06/2005
5:2004cv02224-RS	Molski et al v. Tarpy's Roadhouse Restaurant et al	06/07/2004 04/13/2005
5:2004cv02226-PVT	Molski et al v. Copper-Garrod Estate Vineyards et al	06/07/2004 06/10/2005
3:2001cv02235-JL	Pickern et al v. Villa Inn et al	06/07/2001 03/30/2004
5:2004cv02254-JW	Molski et al v. Sycamore Creek Vineyards	06/08/2004 09/28/2005
4:2001cv02255-CW	Pickern et al v. Surf Motel et al	06/08/2001 03/28/2002
5:2004cv02416- RMW	Molski et al v. Tiny's Restaurant, Inc. et al	06/18/2004 10/06/2005

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5:2004cv02438-JF	Molski et al v. Round Table Pizza Santa Cruz et al	06/21/2004 07/15/2005
5:2004cv02439-JW	Molski et al v. Santa Cruz Diner et al	06/21/2004 02/05/2007
5:2004cv02465-JW	Molski et al v. Thai Village Restaurant et al	06/21/2004 12/14/2004
5:2004cv02466-RS	Molski et al v. White Oaks Plaza	06/21/2004 03/30/2005
5:2004cv02471-JW	Molski et al v. Sunrise Cafe' et al	06/22/2004 01/18/2006
5:2004cv02612-RMW	Connally et al v. Akira Sushi et al	06/29/2004 12/23/2005
3:2004cv02845-TEH	Loskot et al v. Dollar Inn Petaluma et al	07/14/2004 10/06/2005
3:2004cv02848-VRW	Loskot et al v. Holiday Inn Walnut Creek et al	07/14/2004 12/30/2004
3:2004cv02917-CRB	Loskot et al v. Golden Horse Restaurant et al	07/19/2004 02/08/2005
3:2004cv02919-SI	Connally et al v. Red Boy Pizza et al	07/19/2004 03/01/2005
3:2004cv02920-VRW	Connally et al v. Frank's Pier 15 et al	07/19/2004 06/16/2005
3:2004cv02921-MEJ	Connally et al v. Peking Palace et al	07/19/2004 05/03/2006
3:2004cv03156-TEH	Connally et al v. Thai et al	08/03/2004 12/07/2004
3:2004cv03170-JSW	Connally et al v. Cento Stelle, Inc. et al	08/03/2004 11/02/2005
3:2004cv03479-JCS	Connally et al v. Marin Express Lube & Diagnostic Center and Peter's Beacon et al	08/20/2004 06/22/2005
3:2004cv03651-JL	Connally et al v. House of Lee Chinese Restaurant et al	08/27/2004 05/03/2005
3:2004cv03914-BZ	Connally et al v. Eduardo's Restaurant et al	09/16/2004 08/08/2005
4:2004cv03986-CW	Loskot et al v. Diablo Mazda Subaru et al	09/21/2004 03/16/2005
4:2004cv04075-SBA	Connally et al v. Packaging Store et al	09/27/2004 07/19/2005
3:2004cv04308-BZ	Yates et al v. Associated Main Street Partners, et al	10/12/2004 06/30/2005

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7	5:2004cv04352-HRL	Molski et al v. Casanova Restaurant LLC et al	10/14/2004	04/06/2005
8	3:2004cv04355-EDL	Loskot et al v. Thai et al	10/14/2004	10/24/2005
9	5:2004cv04451-RMW	Molski et al v. Jack London's Bar & Grill et al	10/21/2004	12/14/2007
10	3:2004cv04485-VRW	Loskot et al v. San Francisco Central Travelodge et al	10/22/2004	02/24/2006
11	5:2004cv04488-HRL	Molski et al v. Friar Tuck's Restaurant et al	10/22/2004	08/09/2005
12	5:2004cv04590-PVT	Molski et al v Carmel Bakery	10/29/2004	09/30/2005
13	5:2004cv04646-JF	Molski, et al v A.W. Shucks, et al	11/02/2004	05/19/2006
14	3:2004cv04656-MJJ	Loskot et al v. Washington Square Bar & Grill et al	11/03/2004	06/14/2005
15	5:2004cv04679-HRL	Molski et al v. Robata Grill & Sake Bar et al	11/03/2004	10/30/2006
16	5:2004cv04713-RS	Molski et al v. Lugano Swiss Bistro et al	11/08/2004	10/03/2006
17	3:2004cv04739-BZ	Connally et al v. Dragon Cafe' et al	11/09/2004	06/21/2005
18	3:2004cv04970-MMC	Moss et al v. Izzy's Steak & Chop House, Inc et al	11/23/2004	07/29/2005
19	3:2004cv04988-PJH	Loskot et al v. Hyde Out et al	11/24/2004	02/20/2007
20	3:2004cv04989-PJH	Wilson v. Marie Callender's	11/24/2004	11/16/2005
21	3:2004cv05058-JL	Connally et al v. Pelican Inn Associates	11/30/2004	01/24/2006
22	3:2004cv05087-JCS	Yates et al v. Nicolai Building et al	12/01/2004	05/13/2005
23	3:2004cv05088-CRB	Connally et al v. Marin Cleaners, Inc. et al	12/01/2004	03/21/2005
24	3:2004cv05210-TEH	Loskot et al v. Taqueria Bahia: 1200 4th Street LLC	12/09/2004	03/07/2005
25	3:2004cv05211-PJH	Yates et al v. Heller's For Children Inc. et al	12/09/2004	09/14/2005
26	3:2004cv05318-PJH	Archuleta et al v. Jack's Club et al	12/15/2004	12/06/2005

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5	4:2004cv05457-WDB	Loskot et al v. Days Inn San Rafael et al	12/27/2004	10/11/2005
6	3:2005cv00454-JL	Loskot et al v. La Barca et al	01/31/2005	10/05/2005
7	4:2005cv01877-CW	Moss et al v. All Star Donuts et al	05/06/2005	04/18/2006
8	3:2005cv03610-JL	Yates et al v. Woodside Office Center, L.L.C. et al	09/07/2005	09/01/2006
9	3:2006cv03289-JCS	Jankey et al v. Ted's Sport Bar & Grill et al	05/18/2006	8/21/08
10	3:2006cv03423-CRB	Jankey et al v. Heritage Marina Hotel et al	05/25/2006	05/22/2007
11	3:2005cv02239-JCS	Connally et al v. Frank's Freeze et al	06/02/2005	05/31/2006
12	3:2006cv05923-JL	Loskot et al v. International Inn	09/25/2006	08/04/2008
13	3:2006cv05920-PJH	Piazza et al v. Flames Coffee Shop et al	09/25/2006	08/10/2007
14	3:2006cv06156-PJH	Jankey et al v. Tia Margarita et al	10/02/2006	01/25/2008
15	3:2006cv06577-WHA	Connally et al v. Sol Food et al	10/20/2006	08/16/2007
16	3:2006cv07525-MHP	Loskot et al v. La Quinta Inn Oakland Airport et al	12/07/2006	01/30/2008
17	3:2006cv07917-MMC	Yates et al v. Napa Valley Casino et al	12/27/2006	01/17/2008
18	3:2007cv00460-WHA	Yates et al v. Petco Animal Supplies Stores, Inc.	01/23/2007	01/02/2008
19	3:2007cv00946-CRB	Yates et al v. Celia's Restaurants Corporation et al	02/14/2007	05/08/2008
20	3:2007cv00947-TEH	Connally et al v. Roxie Food & Commercial Center et al	02/14/2007	01/11/2008
21	3:2007cv01250-WHA	Connally et al v. USA Smog & Gasoline et al	03/02/2007	Pending, no appearance by defendant
22	3:2007cv01403-MHP	Yates et al v. New Tin's Market et al	03/09/2007	03/06/2008
23	3:2007cv01405-WHA	Yates et al v. Belli Deli et al	03/09/2007	Pending
24	4:2007cv01537-CW	Loskot et al v. University Inn et al	03/16/2007	Pending

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7	3:2007cv01566-PJH	Yates et al v. The Cheese Steak Shop Inc. et al	03/19/2007	08/28/2007
8	3:2007cv02100-JSW	Yates et al v. Foster Freeze Berkeley et al	04/13/2007	Pending
9	3:2007cv02410-SI	Connally et al v. Phyllis's Giant Burger et al.	05/03/2007	02/22/2008
10	3:2007cv02525-MMC	Yates et al v. D & A Cafe Inc et al	05/11/2007	05/16/2008
11	3:2007cv02656-JL	Heatherly et al v. Wood et al	05/18/2007	No appearance
12	3:2007cv02657-JL	Yates et al v. Winter Properties et al	05/18/2007	Pending
13	3:2007cv03033-EDL	Yates et al v. El Sombrero et al	06/12/2007	Pending
14	3:2007cv03326-MMC	Yates et al v. Bimbo Bakeries USA, Inc. et al	06/25/2007	12/27/2007
15	4:2007cv03889-WDB	Yates et al v. Lotus Cuisine of India et al	07/30/2007	06/05/2008
16	3:2007cv03890-MEJ	Ramirez et al v. Fircrest Market et al	07/31/2007	07/17/2008
17	3:2007cv04177-EDL	Yates et al v. Discount Alley Inc. et al	08/14/2007	Pending
18	3:2007cv04395-JCS	Yates et al v. Red's Recovery Room Inc. et al	08/24/2007	Pending
19	3:2007cv04396-MEJ	Ramirez et al v. Union Hotel Inc. et al	08/24/2007	Pending
20	3:2007cv04463-JCS	Ramirez et al v. Omelette Express Inc. et al	08/28/2007	Pending
21	3:2007cv04813-JSW	Moss et al v. Molte Cose et al	09/19/2007	Pending
22	3:2007cv05485-MMC	Yates et al v. N-O-H-R Plaza et al	10/26/2007	Pending
23	3:2007cv06498-WHA	Yates et al v. Levin Commercial Facility et al	12/28/2007	Pending
24	3:2008cv00356-JSW	Yates et al v. Unicorn Pan Asian Cuisine et al	01/18/2008	Pending
25	3:2008cv00737-JCS	Yates et al v. Burger King #3157 et al	01/31/2008	Pending
26	3:2008cv01403-MEJ	Ramirez et al v. Martha's Old Mexico et al	03/12/2008	Pending
27				
28				

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7	3:2008cv01876-CRB	Jankey et al v. King of Thai Noodle House et al	04/08/2008	Pending
8	3:2008cv01877-WHA	Yates et al v. King of Thai Noodle #2 Inc. et al	04/08/2008	Pending
9	3:2008cv01958-JCS	Yates et al v. Sweet Delight et al	04/14/2008	Pending
10	3:2008cv02164-JL	Jankey et al v. Geary Street Bella Pizza et al	04/25/2008	Pending
11	3:2008cv02165-SI	Yates et al v. Twice is Nice et al	04/25/2008	Pending
12	3:2008cv02293-PJH	Yates et al v. Zephyr Cafe et al	05/02/2008	Pending
13	4:2008cv02545-CW	Yates et al v. Sushi Bistro Inc et al	05/20/2008	Pending
14	3:2008cv02733-MMC	Jankey et al v. Five Happiness Restaurant Inc et al	05/30/2008	Pending
15	3:2008cv02734-SI	Yates et al v. Syers Properties LLP	05/30/2008	No appearance by defendant
16	3:2008cv02932-JL	Yates et al v. Benjarong Thai Cuisine et al	06/12/2008	Pending
17	3:2008cv02978-JCS	Jankey et al v. Red Jack Saloon et al	06/16/2008	Pending
18	3:2008cv03004-EDL	Yates et al v. Franklin Arden LLC	06/18/2008	Pending
19	3:2008cv03183-BZ	Yates et al v. Happy Dragon et al	07/02/2008	No appearance by defendant
20	4:2008cv03914-CW	Yates et al v. Tequila Grill et al	08/15/2008	Not served
21	///			
22	///			
23	///			
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1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

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6 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

7 Court: **United States District Court for the Central District of California**  
**Eastern Division -- 3470 Twelfth Street, Riverside, CA 92501**  
**Southern Division -- 411 West Fourth Street, Room 1053, Santa Ana, CA 92701-4516**  
**Western Division -- Roybal Federal Bldg -- 255 East Temple Street, Los Angeles, CA 90012**  
**Western Division -- Spring Street Courthouse -- 312 N. Spring Street, Los Angeles, CA 90012**8  
9 Plaintiff: **DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES:**  
10 **HELPING YOU HELP OTHERS**

11 None of the cases listed below have been designated or determined as "complex."

12 Relationship of this case to the case referenced above (check all that apply):

- 13  involves the same parties and is based on the same or similar claims.
- 14  arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
- 15  involves claims against, title to, possession of, or damages to the same property.
- 16  is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
- 17  Additional explanation is attached in attachment 2.

<u>Case Number</u>	<u>Case Name</u>	<u>Filing Date</u>	<u>Status/Dismissal</u>
2:2000cv11564-RJK	Pellecer, et al v. Lazaro Wisnia	10/30/2000	04/23/2001
2:2001cv04019-SVW	Craig, et al v. Guesthouse Hotel, et al	05/02/2001	05/16/2002
2:2001cv08178-RJK	Ellis, et al v. Los Robles Regional, et al	09/20/2001	07/09/2002
8:2002cv00171-DOC	Bailey Harmon, et al v. Captain Jack's, et al	02/20/2002	02/19/2003
2:2002cv04211-CAS	Ellis, et al v. Arby's Thousand Oaks, et al	05/28/2002	07/18/2003
2:2002cv08837-DDP	Ellis, et al v. Jack's Deli	11/18/2002	06/18/2003
2:2002cv08838-PA	Ellis, et al v. Heritage Plaza, et al	11/18/2002	05/12/2003
2:2002cv06751-GAF	Jankey, et al v. Barones Inc, et al	08/28/2002	05/28/2003
2:2003cv00029-SVW	Phyllis Ellis, et al v. Manny's Original, et al	01/02/2003	08/26/2003

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4 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

5	2:2003cv01400-RGK	Molski, et al v. Sierra Restaurant, et al	02/27/2003 05/05/2003
6	2:2003cv01433-NM	Molski, et al v. Yang Chow Restaurant, et al	02/28/2003 03/31/2004
7	2:2003cv01801-SVW	Molski, et al v. Mission Burrito, et al	03/13/2003 05/16/2003
8	2:2003cv01841-R	Molski, et al v. Roscoe Center, et al	03/14/2003 05/12/2003
9	2:2003cv02069-DSF	Ellis, et al v. Le Rendez-vous, et al	03/24/2003 01/20/2004
10	2:2003cv02239-ER	Jankey, et al v. Yang Chow Restaurant, et al	03/31/2003 07/07/2005
11	2:2003cv02240-JSL	Molski, et al v. Edokko Japanese, et al	03/31/2003 04/20/2004
12	2:2003cv02316-MMM	Ellis, et al v. Hampshire Retail, et al	04/02/2003 12/11/2003
13	2:2003cv02445-LGB	Jankey, et al v. Sizzler's Hollywood, et al	04/07/2003 12/09/2004
14	2:2003cv02561-SVW	Jankey, et al v. Oaks Center Prop Inc	04/10/2003 04/15/2004
15	2:2003cv02656-GAF	Molski, et al v. Canoga Park Bowl Inc, et al	04/15/2003 07/23/2004
16	2:2003cv02793-SJO	Jankey, et al v. Denny's Sepulveda, et al	04/21/2003 05/07/2004
17	8:2003cv00692-CJC	Molski, et al v. Roscoe Center, et al	05/12/2003 02/02/2004
18	8:2003cv00478-JVS	Molski, et al v. Sierra Restaurant, et al	05/05/2003 02/26/2004
19	8:2003cv00673-CJC	Ellis, et al v. Heritage Plaza, et al	05/12/2003 08/27/2003
20	2:2003cv03442-MMM	Molski, et al v. N & N Chinese Rest, et al	05/15/2003 04/20/2004
21	8:2003cv00754-JVS	Molski, et al v. Mission Burrito, et al	05/16/2003 02/26/2004
22	8:2003cv00868-CJC	Jankey, et al v. Barones Inc, et al	05/28/2003 11/17/2003
23	5:2003cv00620-VAP	Molski, et al v. Jewel City Bowl, et al	06/02/2003 04/07/2004
24	2:2003cv04467-DDP	Molski, et al v. Chris & Pitts BBQ, et al	06/23/2003 04/13/2004
25	2:2003cv04469-DDP	Molski, et al v. Chris & Pitts BBQ VN, et al	06/23/2003 04/13/2004
26	2:2003cv04808-CBM	Molski, et al v. Vittorios Italian, et al	07/07/2003 05/27/2004

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7 2:2003cv04809-GW	8 Molski, et al v. Cable's Restaurant, et al	9 07/07/2003 02/04/2008
7 2:2003cv04957-MMM	8 Moss, et al v. Hollywood Days Inn, et al	9 07/11/2003 02/23/2004
8 2:2003cv05070-RSWL	9 Molski, et al v. Bear Pit Restaurant, et al	10 07/16/2003 09/23/2004
9 2:2003cv05455-R	10 Molski, et al v. Valencia Lanes Inc, et al	11 07/30/2003 03/01/2004
10 2:2003cv05456 -ABC	11 Molski, et al v. Harley's Simi Bowl, et al	12 07/30/2003 05/11/2004
11 2:2003cv05457-MMM	12 Molski, et al v. Java Lanes, et al	13 07/30/2003 04/23/2004
12 2:2003cv05458 -GAF	13 Molski, et al v. Alhambra Bowling Ctr, et al	14 07/30/2003 06/14/2004
13 2:2003cv05460-GAF	15 Molski, et al v. Empire Bowl Inc, et al	16 07/30/2003 01/06/2005
14 2:2003cv05461-GAF	17 Molski, et al v. Brunswick Covina, et al	18 07/30/2003 06/08/2004
15 2:2003cv05462-RSWL	19 Molski, et al v. Premiere Lanes, et al	20 07/30/2003 03/12/2004
16 2:2003cv05463-CAS	21 Molski, et al v. Del Rio Lanes Inc, et al	22 07/30/2003 10/18/2004
17 2:2003cv05464-PA	23 Molski, et al v. AMF Bowling Centers, et al	24 07/30/2003 05/14/2004
18 2:2003cv05504-JWJ	25 Molski, et al v. Tava Lanes Bowl, et al	26 07/31/2003 08/09/2006
19 2:2003cv05875-AHM	27 Molski, et al v. Summerwood Winery, et al	28 08/18/2003 04/05/2004
20 2:2003cv05879-NM	29 Molski, et al v. Castoro Cellars, et al	30 08/18/2003 05/04/2004
21 2:2003cv05880-GAF	31 Molski, et al v. EOS Estate Winery, et al	32 08/18/2003 08/31/2005
22 2:2003cv06056-TJH	33 Molski, et al v. Meridian Vineyards, et al	34 08/25/2003 02/26/2004
23 2:2003cv06062-CBM	35 Molski, et al v. Chumela Vineyards, et al	36 08/25/2003 07/28/2004
24 2:2003cv06091-DT	37 Molski, et al v. DiCarlo Vineyard, et al	38 08/26/2003 09/13/2004
25 2:2003cv06233-FMC	39 Molski, et al v. Linne Calodo Cellars, et al	40 08/29/2003 03/11/2004
26 2:2003cv06261-R	41 Molski v. Chateau Margene, et al	42 09/02/2003 02/09/2004
27 2:2003cv06262-RGK	43 Molski, et al v. Hunt Cellars, et al	44 09/02/2003 01/13/2004
28 2:2003cv06263-SVW	45 Molski, et al v. Penman Springs Vine, et al	46 09/02/2003 03/08/2004

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7 2:2003cv06264-GHK	Molski, et al v. Bella Luna Winery, et al	09/02/2003 02/06/2004	
8 2:2003cv06266-TJH	Molski, et al v. Peach Canyon Cellars, et al	09/02/2003 12/22/2004	
9 2:2003cv06361-TJH	Molski, et al v. Eberle Winery Ltd	09/05/2003 10/27/2004	
10 2:2003cv06536-SJO	Molski, et al v. Mastantuono Inc, et al	09/11/2003 06/28/2004	
11 2:2003cv06593-SVW	Molski, et al v. Wild Horse Winery, et al	09/12/2003 03/05/2004	
12 2:2003cv06595-RJK	Molski, et al v. Harmony Cellars, et al	09/12/2003 04/05/2006	
13 2:2003cv06623-CAS	Molski, et al v. Jankris Vineyards, et al	09/15/2003 03/18/2005	
14 2:2003cv06699 -CAS	Molski, et al v. TGIF's Torrance Rest, et al	09/17/2003 06/03/2004	
15 2:2003cv06765-GAF	Molski, et al v. Grey Wolf Vineyards, et al	09/19/2003 09/28/2004	
16 2:2003cv06766-DT	Molski, et al v. Dark Star Cellars, et al	09/19/2003 11/23/2004	
17 2:2003cv06821-RSWL	Molski, et al v. Turley Wine Cellars	09/22/2003 04/16/2004	
18 2:2003cv06891-FMC	Molski, et al v. Arby's Ventura, et al	09/24/2003 01/03/2005	
19 2:2003cv06935-DDP	Molski, et al v. Pretty-Smith Ent LLC	09/25/2003 02/09/2004	
20 2:2003cv07502-WJR	Molski, et al v. Harry's Family Rest, et al	10/20/2003 12/27/2004	
21 2:2003cv07505-RSWL	Molski, et al v. Acapulco Restaurant, et al	10/20/2003 10/12/2004	
22 2:2003cv08061-GPS	Molski, et al v. Coco's, et al	11/06/2003 08/07/2006	
23 8:2003cv01598-JVS	Molski, et al v. Saddleback Lanes, et al	11/07/2003 09/29/2004	
24 2:2003cv08186-GHK	Jankey, et al v. A-LA Drivers Ed Ctr, et al	11/10/2003 08/11/2004	
25 2:2003cv08189-CAS	Molski, et al v. Sizzler Northridge, et al	11/10/2003 08/03/2004	
26 2:2003cv08324-LGB	Molski, et al v. La Habra 300 Bowl, et al	11/14/2003 04/01/2004	
27 2:2003cv08413-TJH	Molski, et al v. China Express, et al	11/19/2003 08/31/2005	
28 2:2003cv08536-SJO	Molski, et al v. El Chaparral, et al	11/24/2003 10/28/2004	
	2:2003cv08537-RSWL	Molski, et al v. El Queso Grande, et al	11/24/2003 12/13/2004

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5	2:2003cv08583-SJO	Jankey, et al v. Clare Foundation Inc.	11/25/2003	07/26/2004
6	2:2003cv08839-WMB	Molski, et al v. Presidente Mexican, et al	12/04/2003	08/03/2004
7	2:2003cv08887-GHK	Molski, et al v. Justin Vineyards, et al	12/05/2003	04/07/2004
8	2:2003cv08889-DT	Molski, et al v. York Mountain Winery, et al	12/05/2003	12/02/2004
9	2:2003cv09034-DT	Jankey, et al v. Safety Education Ctr, et al	12/11/2003	12/13/2004
10	2:2003cv09035-RGK	Molski, et al v. Firestone Vineyard	12/11/2003	02/23/2004
11	2:2003cv09133-LGB	Molski, et al v. Daniel Gehrs Heather, et al	12/15/2003	05/13/2004
12	2:2003cv09134-GAF	Molski, et al v. La Fiesta Mexican, et al	12/15/2003	06/30/2004
13	2:2003cv09339-RSWL	Molski, et al v. Sylvester Winery L P, et al	12/19/2003	08/22/2005
14	2:2003cv09346-RGK	Molski, et al v. Todai Restaurant, et al	12/19/2003	12/01/2004
15	2:2003cv09349-JFW	Molski, et al v. Gainey Vineyard, et al	12/19/2003	10/01/2004
16	2:03-cv-09393-CBM	Molski, et al v. Foley Estates	12/22/2003	08/28/2006
17	2:03-cv-09462-TJH	Molski, et al v. Conrad's La Canada, et al	12/24/2003	09/11/2006
18	2:2003cv09463-MMM	Molski, et al v. Los Olivos Cafe, et al	02/24/2003	10/04/2004
19	2:2003cv09494-AHM	Molski, et al v. Brander Vineyards	12/26/2003	05/05/2005
20	2:2003cv09495-LGB	Molski, et al v. Dona Maria Mexican, et al	12/26/2003	03/11/2005
21	2:2004cv00090-GAF	Molski et al v. Presidente Mexican Restaurant Northridge et al	01/07/2004	12/27/2004
22	2:2004cv00205-FMC	Molski et al v. Casa Del Rey San Dimas et al	01/13/2004	03/16/2005
23	2:2004cv00347-ER	Molski et al v. Kahn Winery and A K Cellars LLC	01/20/2004	12/16/2005
24	2:04-cv-00450-ER	Molski et al v. Mandarin Touch Restaurant et al	01/23/2004	01/05/2006
25	2:2004cv00452-ER	Molski et al v. Kalyra Winery LLC et al	01/23/2004	03/17/2005

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5	8:2004cv00083-CJC	Molski et al v. Kenneth Wilkinson, et al	01/26/2004 09/14/2005
6	8:2004cv00092-CJC	Molski et al v. Gardena Bowling Center, Inc	01/27/2004 06/28/2005
7	2:2004cv00569-RGK	Molski et al v. Cho Cho San Restaurant et al	01/27/2004 7/02/2004
8	2:2004cv00570-R	Molski et al v. Casa Del Rey Temple City et al	01/27/2004 05/24/2004
9	2:2004cv00610-SJO	Molski et al v. Crocodile Cafe Glendale et al	01/28/2004 08/09/2004
10	8:2004cv00096- CJC	Molski et al v. Concourse Entertainment Center et al	01/28/2004 10/20/2005
11	2:2004cv00787-ABC	Molski et al v. AW Foods Marketing Inc et al	02/05/2004 11/22/2004
12	2:2004cv00788-AHM	Molski et al v. Koehler Winery LLC et al	02/05/2004 09/10/2004
13	2:2004cv00838-R	Molski et al v. Fess Parker Winery et al	02/06/2004 08/09/2004
14	2:2004cv00960-SJO	Molski et al v. Casa Del Rey Arcadia et al	02/12/2004 08/16/2004
15	2:2004cv00974-DDP	Molski et al v. Hot Spot Bar and Grill et al	02/12/2004 04/19/2007
16	2:2004cv01044-WMB	Molski et al v. Lafond Winery et a	02/17/2004 08/09/2004
17	2:2004cv01047-PA	Molski et al v. Somethings Fishy et al	02/17/2004 06/04/2004
18	2:2004cv01071-PA	Molski et al v. Hitching Post II Restaurant et al	02/17/2004 06/10/2004
19	2:2004cv01075-ABC	Molski et al v. Conrads Restaurant Glendale et al	02/17/2004 10/07/2005
20	2:2004cv01076-NM	Molski et al v. Mosby Winery et al	02/17/2004 07/19/2005
21	2:2004cv01077-SVW	Molski et al v. Hitching Post I Restaurant Inc	02/17/2004 11/07/2005
22	2:2004cv01098-RGK	Molski et al v. Lamplighter North Hollywood Restaurant et al	02/18/2004 08/06/2004

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5	2:2004cv01101-GHK	Molski et al v. Lamplighter Chatsworth PSG Inc et al	02/18/2004 07/29/2004
6	2:2004cv01263-NM	Molski et al v. Sanford Winery and Vineyards et al	02/25/2004 10/01/2004
7	2:2004cv01268-TJH	Molski et al v. Lamplighter Sherman Oaks Restaurant et al	02/25/2004 01/13/2005
8	2:2004cv01360-RSWL	Molski et al v. Rancho Sisquoc et al	02/27/2004 09/16/2004
9	2:2004cv01361-R	Molski et al v. Mi Casita Salvadorena Restaurant et al	02/27/2004 06/21/2004
10	2:2004cv01362-GHK	Molski et al v. Cambria Winery and Vineyard et al	02/27/2004 08/25/2004
11	2:2004cv01364-SJO	Molski et al v. Crazy Tokyo Sushi et al	02/27/2004 12/27/2004
12	2:2004cv01366-NM	Molski et al v. El Pescador #7 Inc et al	02/27/2004 02/03/2005
13	2:2004cv01394-R	Molski et al v. El Pescador #4 Restaurant et al	03/01/2004 10/25/2004
14	2:2004cv01395-RSWL	Molski et al v. Zaca Mesa Winery et al	03/01/2004 09/10/2004
15	2:2004cv01412-DDP	Molski et al v. El Pescador #2 Restaurant et al	03/02/2004 02/23/2005
16	2:2004cv01552-GPS	Molski et al v. Casa Di Pizza et al	03/08/2004 02/14/2005
17	2:2004cv01869-SVW	Molski et al v. Encino Investors Building et al	03/18/2004 08/17/2004
18	2:2004cv01875-GAF	Molski et al v. El Pescador #5 et al	03/18/2004 05/19/2005
19	2:2004cv01930-ABC	Molski et al v. El Pescador #8 et al	03/19/2004 08/26/2005
20	2:2004cv01931-R	Molski et al v. New Light and Healthy Japanese Restaurant et al	03/19/2004 10/28/2004
21	5:2004cv00328-VAP	Molski et al v. Seafare Inn et al	03/19/2004 02/09/2005
22	2:2004cv01958-R	Molski et al v. Sushi Marina et al	03/22/2004 10/06/2004
23	2:2004cv02150-GAF	Molski et al v. Valley Ranch BBQ et al	03/29/2004 07/05/2005

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5	2:2004cv02350-RSWL	Molski et al v. La Fiesta Grande et al	04/02/2004	08/04/2005
6	2:2004cv02351-JSL	Molski et al v. Candilejas Restaurant et al	04/02/2004	01/09/2006
7	2:2004cv02352-JSL	Molski et al v. Domain Alfred et al	04/02/2004	01/05/2005
8	2:2004cv02488-RSWL	Jankey et al v. Federal Express Corp et al	04/08/2004	09/19/2005
9	2:2004cv02610-JSL	Molski et al v. Spyglass Investment Company et al	04/14/2004	01/14/2005
10	2:2004cv02723-LGB	Molski et al v. Szechuan Garden et al	04/19/2004	09/29/2004
11	2:2004cv02889-DSF	Molski et al v. Claiborne and Churchill Inc	04/26/2004	12/27/2004
12	2:2004cv02890-CJC	Molski et al v. Kynsi Wines Inc	04/26/2004	09/30/2005
13	2:2004cv03121-MMM	Molski et al v. Longhouse Restaurant Inc et al	05/03/2004	05/14/2004
14	2:2004cv03122-RGK	Molski et al v. Di Fronzo Properties LLC	05/03/2004	07/13/2004
15	2:2004cv03249-DSF	Molski et al v. Hong Kong Inn Inc et al	05/07/2004	12/06/2005
16	2:2004cv03250-JFW	Molski et al v. Senor Sanchos-Spring et al	05/07/2004	12/06/2004
17	2:2004cv03332-PA	Molski et al v. Perkos Pismo Beach et al	05/11/2004	03/08/2005
18	2:2004cv03544-RGK	Molski et al v. Cracked Crab Restaurants Inc et al	05/19/2004	04/12/2005
19	2:2004cv03598-DT	Molski et al v. Hoovers Enterprises Inc et al	05/20/2004	11/29/2004
20	2:2004cv03599-ABC	Molski et al v. Wilsons Lanes et al	05/20/2004	11/28/2005
21	2:2004cv03696-WJR	Molski et al v. Bill and Carols Sea Shanty et al	05/25/2004	06/23/2005
22	2:2004cv03697-DSF	Molski et al v. Pacos et al	05/25/2004	07/22/2005
23	2:2004cv03743-PA	Molski et al v. 21st Street Drive-In et al	05/26/2004	03/10/2005
24	2:2004cv03746-SVW	Molski et al v. Ahedos Restaurant et al	05/26/2004	12/15/2004
25	2:2004cv03747-MMM	Molski et al v. Pierside Inc et al	05/26/2004	03/08/2005

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4 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

5 2:2004cv03780-DDP	Molski et al v. Foster Freeze Paso Robles et al	05/27/2004	05/15/2007
6 2:2004cv03791-CBM	Molski et al v. Girls Restaurant Inc et al	05/27/2004	12/27/2004
7 2:2004cv03828-AHM	Molski et al v. F McLintock S Saloon and Dining House et al	05/28/2004	03/07/2005
8 2:2004cv03829-GPS	Molski et al v. A J Spurs Templeton et al	05/28/2004	11/01/2005
9 2:2004cv03929-GAF	Molski et al v. A J Spurs Inc et al	06/02/2004	08/10/2005
10 2:2004cv04059-CBM	Molski et al v. Harbor Hut Inc	06/07/2004	06/20/2005
11 2:2004cv04061-JSL	Molski et al v. Outrigger et al	06/07/2004	03/16/2005
12 2:2004cv04062-JFW	Molski et al v. Whales Tail Restaurant et al	06/07/2004	10/19/2004
13 2:2004cv04240-RGK	Molski et al v. Fosters Freeze Morro Bay et al	06/14/2004	12/10/2004
14 2:2004cv04241-ER	Molski et al v. Fosters Freeze San Luis Obispo et al	06/14/2004	03/23/2005
15 2:2004cv04242-TJH	Molski et al v. Great American Fish Co Inc et al	06/14/2004	11/07/2005
16 2:2004cv04243-FMC	Molski et al v. J B J Round Up Pizza et al	06/14/2004	09/02/2005
17 2:2004cv04283-JFW	Molski et al v. Cambria Cafe et al	06/15/2004	03/08/2005
18 2:2004cv04284-PA	Molski et al v. Sea Chest et al	06/15/2004	04/11/2005
19 2:2004cv04428-AHM	Molski et al v. The Galley et al	06/18/2004	07/19/2005
20 2:2004cv04429-JFW	Jankey et al v. Q Bargain et al	06/18/2004	01/20/2005
21 2:2004cv04430-TJH	Jankey et al v. M Williams Strip Mall et al	06/18/2004	11/29/2004
22 2:2004cv04497-TJH	Molski et al v. Fishbowl Restaurant LLC	06/22/2004	09/12/2005
23 2:2004cv04498-GAF	Molski et al v. Pine Street Plaza et al	06/22/2004	10/25/2005
24 2:2004cv04610-NM	Molski et al v. Busis Restaurant et al	06/24/2004	07/01/2005
25 2:2004cv04611-JWJ	Molski et al v. Coffee Pot Restaurant et al	06/24/2004	09/14/2005

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4 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

5	2:2004cv04650-DT	Harris et al v. Mister Ts Family Restaurant et al	06/25/2004 02/11/2005
6	2:2004cv04684-RNB	Molski et al v. Margies Diner - Morro Bay et al	06/28/2004 12/29/2004
7	2:2004cv04685-SVW	Molski et al v. Hungry Fisherman Restaurant et al	06/28/2004 01/04/2005
8	2:2004cv04696 -MMM	Molski et al v. Chevron - Morro Bay et al	06/28/2004 05/23/2005
9	2:2004cv04697-DT	Molski et al v. China Bowl Restaurant et al	06/28/2004 08/22/2005
10	2:2004cv04739-GHK	Molski et al v. La Hacienda et al	06/29/2004 12/08/2005
11	2:2004cv04822-NM	Molski et al v. Carlas Country Kitchen et al	07/01/2004 07/11/2005
12	2:2004cv04826-SJO	Jankey et al v. Bakers Square Alhambra et al	07/01/2004 05/09/2005
13	2:2004cv04865-PA	Molski et al v. Busy Bee Cafe et al	07/02/2004 04/19/2005
14	2:2004cv04866-MMM	Molski et al v. Thai Palace Corporation et al	07/02/2004
15	2:2004cv04867-ABC	Molski et al v. McCarthys Irish Pub et al	07/02/2004 01/20/2006
16	2:2004cv04870-DT	Molski et al v. Tio Albertos - Los Osos et al	07/02/2004 02/23/2005
17	2:2004cv04873-MMM	Molski et al v. Pizza Port et al	07/02/2004 10/13/2004
18	2:2004cv04874-JFW	Molski et al v. Taco de Mexico et al	07/02/2004 03/18/2005
19	2:2004cv05453-JFW	Molski et al v. Maya Restaurant et al	07/14/2004 06/09/2005
20	2:2004cv06385-SVW	Connally et al v. House of Lee Chinese Restaurant et al	08/02/2004 08/24/2004
21	2:2004cv06389-TJH	Jankey et al v. Millies Inc et al	08/02/2004 04/18/2006
22	2:2005cv05946-DDP	Jankey et al v. Faustino's Italian Kitchen et al	08/15/2005 06/02/2008
23	2:2005cv06730-SJO	Jankey et al v. Commercial Management Concepts LLC et al	09/13/2005 06/15/2006

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4 (This Attachment may be used with any Judicial Council form.) (Add pages as required)

5	2:2004cv06885-TJH	Molski et al v. Big Bopper Drive-in et al	08/17/2004	01/18/2005
6	2:2004cv07018-DT	Molski et al v. Bit O Denmark Inc et al	08/20/2004	12/21/2005
7	8:2004cv01011-JVS	Molski et al v. Little Mermaid et al	08/20/2004	04/13/2005
8	2:2004cv07051-JSL	Molski et al v. New Danish Inn Restaurant et al	08/23/2004	06/28/2005
9	2:2004cv07188-SJO	Molski v. Copenhagen T S and Gifts et al	08/27/2004	03/24/2005
10	2:2004cv07189-DSF	Molski et al v. Solvang Restaurant et al	08/27/2004	12/05/2005
11	2:2004cv07191-WJR	Molski et al v. First Street Building et al	08/27/2004	03/17/2005
12	2:2004cv07192-DDP	Molski et al v. Red Viking Restaurant et al	08/27/2004	12/27/2005
13	2:2004cv07270 -SJO	Jankey et al v. Orange Delight et al	08/31/2004	07/21/2005
14	2:2004cv07271-MMM	Molski et al v. Danish Mill Bakery Inc et al	08/31/2004	03/30/2005
15	2:2004cv07345-RGK	Doran et al v. Santa Nella Hotel Corporation	09/02/2004	08/09/2005
16	2:2004cv07346-CBM	Molski et al v. Old Danish Food Farm Inc et al	09/02/2004	04/05/2005
17	2:2004cv07347-R	Molski et al v. Berengaria and Gerdas Iron Art et al	09/02/2004	02/10/2005
18	2:2004cv07417-GHK	Molski et al v. Dos Amigos et al	09/07/2004	03/01/2005
19	2:2004cv07538-DDP	Molski et al v. Mannys Mexican Restaurant et al	09/10/2004	03/21/2005
20	2:2004cv07539-PA	Molski et al v. Thai-Rrific Restaurant et al	09/10/2004	08/25/2005
21	2:2004cv07541-RSWL	Molski et al v. Solvang Bakery Inc et al	09/10/2004	08/31/2005
22	2:2004cv07725-SVW	Molski et al v. Pine Tree Inn et al	09/16/2004	03/21/2005
23	2:2004cv07765-DSF	Molski et al v. Camozzis et al	09/17/2004	04/18/2005
24	2:2004cv07797-CBM	Molski et al v. Hamlet Square et al	09/20/2004	03/01/2006
25	2:2004cv07799-GAF	Molski et al v. Cambria Courtyard et al	09/20/2004	11/23/2005

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5	2:2004cv07831-MMM	Molski et al v. Redwood Center LP et al	09/21/2004	07/26/2005
6	2:2004cv07832-NM	Molski et al v. Jensens Copenhagen Square et al	09/21/2004	08/09/2005
7	2:2004cv07862-TJH	Molski et al v. Belgian Cafe et al	09/22/2004	11/08/2005
8	2:2004cv07864-CBM	Jankey et al v. Los Burritos Inc et al	09/22/2004	10/24/2006
9	2:2004cv07866-ABC	Jankey et al v. Ranch House BBQ and Grill et al	09/22/2004	02/09/2006
10	2:2004cv07937-FMC	Jankey et al v. Mother Lode et al	09/23/2004	07/26/2005
11	2:2004cv07939-FMC	Moss et al v. Comfort Inn Woodland Hills et al	09/23/2004	10/23/2006
12	2:2004cv07985-RJK	Jankey et al v. Lank and Oxn Center et al	09/24/2004	08/02/2005
13	2:2004cv07987-CAS	Molski v. Solvang Theaterfest Inc et al	09/24/2004	05/15/2006
14	2:2004cv08135-TJH	Moss et al v. Exotic Nature et al	09/29/2004	11/23/2005
15	2:2004cv08140-WMB	Moss et al v. New Moon et al	09/29/2004	03/09/2005
16	2:2004cv08255-TJH	Moss et al v. Vagabound Inn Solvang et al	10/04/2004	05/16/2006
17	2:2004cv08523-MMM	Molski et al v. Ellens Danish Pancake House et al	10/14/2004	10/26/2005
18	2:2004cv08524-GHK	Molski et al v. Tonos Mexican Restaurant et al	10/14/2004	10/25/2006
19	2:2004cv08616-AHM	Molski et al v. Mother Hubbards Restaurant et al	10/18/2004	08/02/2005
20	2:2004cv08617-MMM	Jankey et al v. Belmont Restaurant et al	10/18/2004	08/26/2005
21	2:2004cv08744-SJO	Jankey et al v. Beach Pizza et al	10/21/2004	02/09/2006
22	2:2004cv08745-MMM	Molski et al v. Ginos Pizza et al	10/21/2004	09/02/2005
23	2:2004cv08775-GHK	Jankey et al v. El Taco Loco - North Hollywood et al	10/22/2004	08/26/2005
24	2:2004cv08778-JSL	Jankey et al v. Hamburger Haven et al	10/22/2004	08/30/2006

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5	2:2004cv09112-GHK	Jankey et al v. Mister Ds Liquor Market et al	11/04/2004	11/17/2005
6	8:2004cv01295-JVS	Jankey et al v. El Cholo Cafe et al	11/05/2004	11/30/2005
7	2:2004cv09178-SGL	Jankey et al v. Moons Market et al	11/05/2004	11/17/2006
8	2:2004cv09267-ER	Jankey et al v. Mermaid Restaurant et al	11/10/2004	02/02/2006
9	2:2004cv09312-GHK	Jankey et al v. Bottle Inn et al	11/12/2004	07/19/2006
10	2:2004cv09609-GPS	Jankey et al v. Sloopys et al	11/23/2004	02/07/2006
11	2:2004cv09741-RSWL	Jankey et al v. Poop Deck et al	11/30/2004	04/21/2006
12	2:2005cv01288-TJH	Jankey et al v. Beach Market et al	02/18/2005	08/12/2005
13	2:2005cv03625-DT	Jankey et al v. Aloha Sharkeez et al	05/16/2005	06/12/2006
14	2:2005cv03626-AHM	Jankey et al v. Dans Liquor et al	05/16/2005	08/23/2006
15	2:2005cv03842-RGK	Jankey et al v. OB's Bar and Grill et al	05/25/2005	06/14/2005
16	2:2005cv03856-SVW	Jankey et al v. Beach Hut et al	05/25/2005	08/24/2006
17	2:2005cv03858-SVW	Jankey et al v. Pedone's Pizza et al	05/25/2005	11/21/2006
18	8:2004cv00038-CJC	Molski et al v. Arby's Huntington Beach et al	08/12/2005	07/28/2006
19	2:2004cv02647-R	Molski et al v. Pismo Bowl et al	11/15/2007	11/26/2007
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5  
6 Court: **United States District Court for the Eastern District of California**  
501 "I" Street, Sacramento, CA 95814  
2500 Tulare Street, Fresno, CA 937217  
8 Plaintiff: **DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES:**  
**HELPING YOU HELP OTHERS**

9 None of the cases listed below have been designated or determined as "complex."

10 Relationship of this case to the case referenced above (check all that apply):

11      involves the same parties and is based on the same or similar claims.

12      arises from the same or substantially identical transactions, incidents, or events  
13        requiring the determination of the same or substantially identical questions of law or  
      fact.

14      involves claims against, title to, possession of, or damages to the same property.

15      is likely for other reasons to require substantial duplication of judicial resources if  
16        heard by different judges.

17         Additional explanation is attached in attachment 2.

18	<u>Case Number</u>	<u>Case Name</u>	<u>Filing Date</u>	<u>Status/Dismissal</u>
19	2:1999cv01669-FCD	Ashley, et al v. Blackwell, et al	08/27/1999	09/16/2002
20	2:2000cv02231-WBS	Pickern, et al v. Eppie's Capitol, et al	10/12/2000	03/29/2002
21	2:2000cv02232-WBS	Connally, et al v. Eppie's N Street, et al	10/12/2000	03/29/2002
22	2:2000cv02342-LKK	Loskot, et al v. Chicago Title, et al	10/23/2000	05/28/2002
23	2:2000cv02343-WBS	Doran, et al v. Chicago Title Red, et al	10/23/2000	07/02/2002
24	2:2000cv02355-DFL	Loskot, et al v. Chicago Title Ins, et al	10/24/2000	07/02/2002
25	2:2000cv02364-WBS	Doran, et al v. Ponderosa Inn, et al	10/25/2000	03/29/2002
26	2:2000cv02723-WBS	Gerber, et al v. Eppie's Modesto, et al	10/25/2000	04/16/2002
27	2:2000cv02404-WBS	Doran, et al v. Eppies Restaurant, et al	10/30/2000	03/29/2002
28	2:2000cv02405-DFL	Loskot, et al v. Pine Street School, et al	10/30/2000	06/17/2002

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5 1:2000cv06886-AWI	Gerber, et al v. Burger King Madera, et al	11/02/2000 10/10/2001
6 2:2000cv02555-FCD	Loskot v. Best Western Inn and Suites Vallejo et al	11/20/2000 09/23/2002
7 2:2000cv02556-MLS	Jankey, et al v. Tahoe Limited Corp, et al	11/20/2000 06/04/2002
9 2:2000cv02557-MLS	Ray, et al v. KML Corporation, et al	11/20/2000 05/29/2002
10 2:2000cv02671-FCD	Loskot, et al v. Crystal Mall, et al	12/06/2000 07/15/2002
11 2:2001cv00206-DFL	Haugsten, et al v. Mervyn's Stockton, et al	01/31/2001 04/22/2002
12 2:2001cv00287-GEB	Doran, et al v. Bell, et al	02/13/2001 11/21/2001
13 2:2001cv00386-LKK	Doran, et al v. Corinas's Restaurant, et al	02/26/2001 06/05/2002
14 2:2001cv00876-DFL	Loskot, et al v. Hawes Ranch and Farm, et al	05/07/2001 03/26/2002
15 2:2001cv00893-LKK	D'Lil, et al v. Pavilions Shopping, et al	05/09/2001 10/11/2001
16 2:2001cv00894-FCD	Ashley, et al v. Farmers Ins Agcy, et al	05/09/2001 02/06/2002
17 2:2001cv01096-WBS	Pickern, et al v. Marinos Pizza, et al	06/04/2001 02/24/2003
18 2:2001cv01122-MCE	Doran v. Red Bluff Chrysler, et al	06/08/2001 10/29/2002
19 2:2001cv01590-DFL	Connally, et al v. River Ranch Lodge, et al	08/16/2001 12/23/2002
20 2:2001cv01710-MCE	Pickern, et al v. Enloe Medical Ctr	09/07/2001 12/05/2003
21 2:2001cv01711-MLS	D'Lil, et al v. Yreka Days Inn, et al	09/07/2001 01/14/2002
22 2:2001cv01747-WBS	Loskot, et al v. Anderson Medical, et al	09/13/2001 11/18/2002
23 2:2001cv01748-GEB	Loskot, et al v. Gerlinger Steel, et al	09/13/2001 02/19/2003
24 2:2001cv01954-WBS	Gerber, et al v. Florentine Restauran, et al	10/22/2001 07/23/2002
25 2:2001cv01998-DFL	Doran, et al v. Oroville Hospital, et al	10/29/2001 02/20/2003
26 2:2002cv00086-WBS	Loskot, et al v. Sacto Capitol Center, et al	01/14/2002 05/06/2003
27 2:2002cv00092-MCE	Weygandt, et al v. Lithia CIMR Inc, et al	01/14/2002 12/23/2002

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5	2:2002cv00267-GEB	Doran, et al v. Cameron Park Inn, et al	02/01/2002	03/12/2004
6	2:2002cv00275-MCE	Loskot, et al v. 3 Brother's Rest, et al	02/04/2002	11/13/2003
7	2:2002cv00916-MCE	Doran, et al v. Waffle Shop, et al	04/29/2002	06/30/2003
8	2:2002cv01208-MCE	Doran, et al v. Days Inn Oroville, et al	06/05/2002	04/18/2003
9	2:2002cv01209-MCE	Doran, et al v. Sunset Inn Oroville, et al	06/05/2002	11/05/2003
10	2:2002cv01241-DFL	Doran, et al v. DQ Orangevale, et al	06/10/2002	04/27/2004
11	2:2002cv01242-DFL	Doran, et al v. Wild Sports Ent, et al	06/10/2002	04/25/2003
12	2:2002cv01273-MCE	Doran, et al v. Rocklin Days Inn, et al	06/12/2002	09/18/2003
13	2:2002cv01274-LKK	Doran, et al v. Crown Motors, et al	06/12/2002	10/21/2003
14	2:2002cv02048-MCE	Weygandt, et al v. La Cabana Mexican, et al	09/18/2002	09/23/2003
15	2:2002cv02490-WBS	Jones, et al v. Far East Cafe, et al	11/18/2002	04/27/2004
16	2:2002cv02508-GEB	Harris, et al v. Koffee Korner, et al	11/19/2002	08/22/2003
17	2:2002cv02523-WBS	Long, et al v. Viking Motor Lodge, et al	11/21/2002	01/29/2004
18	2:2002cv02617-WBS	Feezor, et al v. El Mariachi, et al	12/06/2002	05/10/2004
19	2:2002cv02637-GEB	Cone, et al v. Amer River Dr Assoc, et al	12/10/2002	03/30/2004
20	2:2002cv02751-LKK	Jones, et al v. El Mariachi Rest, et al	12/30/2002	05/25/2004
21	2:2003cv00475-LKK	Doran, et al v. Best Tahoe West Inn, et al	03/11/2003	08/06/2003
22	2:2003cv00539-MCE	Doran, et al v. Discovery Park Days, et al	03/17/2003	05/18/2006
23	2:2003cv00540-LKK	Feezor, et al v. Comfort Inn Vallejo, et al	03/17/2003	10/16/2003
24	2:2003cv00697-FCD	Jones, et al v. Park Marina Village, et al	04/04/2003	01/25/2005
25	2:2003cv00758-LKK	Doran, et al v. Best Western Golden, et al	04/14/2003	04/06/2004
26	2:2003cv00759-LKK	Doran, et al v. Red Lion Hotel, et al	04/14/2003	07/07/2003
27	2:2003cv00760-GEB	Connally, et al v. Carl's Jr Santa, et al	04/14/2003	06/04/2004

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5	2:2003cv00804-FCD	Doran, et al v. Vallejo Quality Inn, et al	04/18/2003	01/05/2005
6	2:2003cv00808-LKK	Weygandt, et al v. Pizza Hut Hilltop, et al	04/18/2003	05/07/2003
7	2:2003cv01052-WBS	Doran, et al v. Oilwell Materials, et al	05/19/2003	11/04/2003
8	2:2003cv01417-GEB	Feezor, et al v. Carrows Restaurant	07/03/2003	03/16/2005
9	2:2003cv01505-LKK	Stevie, et al v. Pizza Hut Hilltop, et al	07/15/2003	01/10/2005
10	2:2003cv01542-GEB	D'Lil, et al v. Baker's Square Rst, et al	07/22/2003	08/09/2006
11	2:2003cv01946-DFL	Doran, et al v. King's Trading Post, et al	09/17/2003	06/03/2005
12	2:2003cv02189-MCE	Loskot, et al v. Harbor Inn, et al	10/17/2003	06/05/2007
13	2:2003cv02337-GEB	Loskot, et al v. Baker's Square West, et al	11/10/2003	03/26/2004
14	2:2004cv00755-GEB	Bowman, et al v. Best Western Station, et al	04/15/2004	12/16/2005
15	2:2004cv01520-FCD	Chapman, et al v. Park West Office Ctr, et al	08/03/2004	03/28/2006
16	2:2004cv01668-WBS	Chapman, et al v. Davis Orthopedic, et al	08/16/2004	04/18/2006
17	2:2004cv01670-LKK	Loskot, et al v. Northstate Recycling, et al	08/16/2004	05/25/2005
18	2:2004cv01719-DFL	Loskot, et al v. Asian Buffet Inc, et al	08/23/2004	12/07/2005
19	2:2004cv01992-GEB	Loskot, et al v. United Petroleum, et al	09/24/2004	06/09/2006
20	1:2004cv06375-OWW	Doran, et al v. Pea Soup Andersen's, et al	10/04/2004	12/16/2005
21	2:2004cv02096-GEB	Loskot, et al v. Green Valley Ford, et al	10/06/2004	12/06/2005
22	2:2006cv01164-GEB	Loskot et al v. Cascade Rigging & Supply Company Inc. et al	05/30/2006	03/22/2007
23	2:2007cv01324-FCD	Loskot et al v. Peking Restaurant, et al.,	07/05/2007	07/03/2008
24	2:2007cv01519-FCD	Loskot v. Best Western Inn and Suites Vallejo et al	07/26/2007	08/21/2008
25	2:2007cv01564-FCD	Chapman, et al. v. Subway Salads and Sandwiches #14054, et al.	08/01/2007	Pending

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 1 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*7 **B. Additional Explanation Regarding Relationship of Cases Listed.**8 The instant action involves an individual plaintiff in a wheelchair (CRAIG YATES) who  
9 claims personal injuries to his upper extremities caused when he purportedly had difficulty in  
10 entering the defendants' premises in this action through its double doors. Institutional plaintiff  
11 (DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES: HELPING YOU HELP  
12 OTHERS) has no cognizable claim because it lacks standing to sue (see *infra*). Both of these parties,  
13 as well as *all of the parties* listed in this Notice of Related Cases, are represented by the same law  
14 firm, Thomas E. Frankovich, PLC, with the sole exception of SF Sup. Ct. Case No. CGC-08-470951.15 The lawsuit alleges various violations of the plaintiff's disability rights. The following  
16 constitutes the analysis of how the suit identified in this Notice of Related Cases involves the same  
17 parties and how they are based on the same or similar claims.18 **Plaintiff: YATES, CRAIG**19 Those cases listed in this Notice of Related Cases in which plaintiff CRAIG YATES is an  
20 individual plaintiff in this Court, Marin County Superior Court and the United States District Court  
21 for the Northern District of California, involve the same individual plaintiff who claims, as a result  
22 of accessing the premises of every single premises owned or operated by the named defendants, very  
23 similar, if not identical, personal injuries in each lawsuit over the course of three years, to wit:24

- 25 "Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
26 about *June 11, 2004*, was an invitee, guest, patron, customer . . . [who]  
27 suffered bodily injury (including, but not limited to, fatigue, stress, strain and  
over architectural barriers), physical discomfort, emotional distress, mental  
distress, mental suffering, mental anguish, which includes, but is not limited  
to, shame, humiliation, embarrassment, anger, chagrin, disappointment and  
worry, expectedly and naturally associated with a person with physical  
disabilities being denied access . . ." (U.S.D.C. N.D. Cal. Case No.  
3:2004cv04308-BZ, Complaint, ¶¶26, 28, 64, 72, 73, 81);

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 2 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

- 7 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
8 about *July 3, 2004*, was an invitee, guest, patron, customer . . . [who] suffered  
9 bodily injury (including, but not limited to, fatigue, stress, strain and pain in  
10 wheeling and attempting to and/or transferring around, through, up and over  
11 architectural barriers), physical discomfort, emotional distress, mental distress,  
12 mental suffering, mental anguish, which includes, but is not limited to, shame,  
13 humiliation, embarrassment, anger, chagrin, disappointment and worry,  
14 expectedly and naturally associated with a person with physical disabilities  
15 being denied access . . .” (U.S.D.C. N.D. Cal. Case No. 3:2004cv05087-JCS,  
16 Complaint, ¶¶25, 27, 63, 71, 72, 80);
- 17 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
18 about *July 3, 2004*, [and *November 19, 2004*,] was an invitee, guest, patron,  
19 customer . . . [who] suffered bodily injury (including, but not limited to,  
20 fatigue, stress, strain and pain in wheeling and attempting to and/or  
21 transferring around, through, up and over architectural barriers), physical  
22 discomfort, emotional distress, mental distress, mental suffering, mental  
23 anguish, which includes, but is not limited to, shame, humiliation,  
24 embarrassment, anger, chagrin, disappointment and worry, expectedly and  
25 naturally associated with a person with physical disabilities being denied  
26 access . . .” (U.S.D.C. N.D. Cal. Case No. 3:2004cv05211-PJH, Complaint,  
27 ¶¶2, 18, 23, 26, 28, 64, 72, 73, 81);
- 28 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
about *August 28, 2005, November 27, 2005, December 10, 2005, January 8, 2006, January 16, 2006, March 15, 2006, July 11, 2006, October 28, 2006, December 4, 2006*, was an invitee, guest, patron, customer . . . [who] suffered  
bodily injury (including, but not limited to, fatigue, stress, strain and pain in  
wheeling and attempting to and/or transferring around, through, up and over  
architectural barriers), physical discomfort, emotional distress, mental distress,  
mental suffering, mental anguish, which includes, but is not limited to, shame,  
humiliation, embarrassment, anger, chagrin, disappointment and worry,  
expectedly and naturally associated with a person with physical disabilities  
being denied access . . .” (U.S.D.C. N.D. Cal. Case No.  
3:2007cv00460-WHA, Complaint, ¶¶2, 14, 15, 24, 68);
- “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
about *October 5, 2006 and January 27, 2007*, was an invitee, guest, patron,  
customer . . . [who] suffered bodily injury (including, but not limited to,  
fatigue, stress, strain and pain in wheeling and attempting to and/or  
transferring around, through, up and over architectural barriers), physical  
discomfort, emotional distress, mental distress, mental suffering, mental  
anguish, which includes, but is not limited to, shame, humiliation,  
embarrassment, anger, chagrin, disappointment and worry, expectedly and  
naturally associated with a person with physical disabilities being denied  
access . . .” (U.S.D.C. N.D. Cal. Case No. 3:2007cv00946-CRB, Complaint,

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 3 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

7 ¶¶2, 14, 30);

- 8 • “on November 11, 2005, . . . plaintiff suffered bodily injury . . .  
9 including, but not limited to, fatigue, stress, strain and pain in wheeling  
10 and attempting to and/or transferring up, on, down, to, over, around  
11 and through architectural barriers . . . suffered continuous, repetitive  
12 and cumulative trauma to his upper extremities while attempting to  
13 open the door to summon the counter clerk . . . (SF Sup. Ct. Case No.  
14 CGC-06-452090, Complaint, ¶¶23-26);
- 15 • “on November 27, 2005, . . . plaintiff suffered bodily injury . . . including, but  
16 not limited to, fatigue, stress, strain and pain in wheeling and attempting to  
17 and/or transferring up, on, down, to, over, around and through architectural  
18 barriers . . . suffered continuous, repetitive and cumulative trauma to his upper  
19 extremities while attempting to open the door to summon the counter clerk . . .  
20 (SF Sup. Ct. Case No. CGC-06-452131, Complaint, ¶¶23-26);
- 21 • On “May 28, 2005, December 28, 2005 and May 6, 2006, . . . plaintiff  
22 suffered bodily injury . . .” (SF Sup. Ct. Case No. CGC-06-452509,  
23 Complaint, ¶¶14-15, 25);
- 24 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or about April 9, 2006, April 10, 2006, May 10, 2006, June 1, 2006, June 12, 2006, January 11, 2007, January 25, 2007, and February 1, 2007, was an invitee, guest, patron, customer . . . [who] suffered physical discomfort, emotional distress, mental distress, mental suffering, mental anguish, which includes, but is not limited to, shame, humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally associated with a person with physical disabilities being denied access . . .” (U.S.D.C. N.D. Cal. Case No. 3:2007cv01403-MHP, Complaint, ¶¶2, 14, 15, 27);
- 25 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or about April 16, 2006, September 27, 2006, October 10, 2006, March 22, 2007, May 26, 2007 and June 21, 2007, was an invitee, guest, patron, customer . . . [who] suffered physical discomfort, emotional distress, mental distress, mental suffering, mental anguish, which includes, but is not limited to, shame, humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally associated with a person with physical disabilities being denied access . . .” (U.S.D.C. N.D. Cal. Case No. 4:2007cv03889-WDB, Complaint, ¶¶2, 14, 29, 30);

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 4 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

- 7 • On “*May 27, 2006, . . . plaintiff suffered bodily injury . . .*” (SF Sup. Ct. Case  
8 No. CGC-06-456662, Complaint, ¶¶25, 27, 56);
- 9 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
10 about *June 1, 2006, June 12, 2006, June 14, 2006, July 12, 2006, January 11,*  
11 *January 25, 2007 and February 1, 2007*, was an invitee, guest, patron,  
12 customer . . . [who] suffered bodily injury (including, but not limited to,  
13 fatigue, stress, strain and pain in wheeling and attempting to and/or  
14 transferring around, through, up and over architectural barriers), physical  
15 discomfort, emotional distress, mental distress, mental suffering, mental  
16 anguish, which includes, but is not limited to, shame, humiliation,  
17 embarrassment, anger, chagrin, disappointment and worry, expectedly and  
18 naturally associated with a person with physical disabilities being denied  
19 access . . .” (U.S.D.C. N.D. Cal. Case No. 3:2007cv02525-MMC, Complaint,  
20 ¶¶2, 14, 30, 32, 60.)
- 21 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
22 about *August 1, 2006, August 29, 2006, and January 25, 2007*, was an invitee,  
23 guest, patron, customer . . . [who] suffered bodily injury (including, but not  
24 limited to, fatigue, stress, strain and pain in wheeling and attempting to and/or  
25 transferring around, through, up and over architectural barriers), physical  
26 discomfort, emotional distress, mental distress, mental suffering, mental  
anguish, which includes, but is not limited to, shame, humiliation,  
embarrassment, anger, chagrin, disappointment and worry, expectedly and  
naturally associated with a person with physical disabilities being denied  
access . . .” (U.S.D.C. N.D. Cal. Case No. 3:2007cv01405-WHA, Complaint,  
¶¶2, 14, 15, 30, 59);
- 27 • “On or about *August 13, 2006, August 30, 2006 and October 28, 2006*,  
28 plaintiff CRAIG YATES was an invitee and . . . suffered bodily injury.” (SF  
Sup. Ct. Case No. CGC-06-459119, Complaint, ¶¶2, 14, 24);
- “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
about *October 3, 2006*, was an invitee, guest, patron, customer . . . [who]  
suffered bodily injury (including, but not limited to, fatigue, stress, strain and  
pain in wheeling and attempting to and/or transferring around, through, up and  
over architectural barriers), physical discomfort, emotional distress, mental  
distress, mental suffering, mental anguish, which includes, but is not limited  
to, shame, humiliation, embarrassment, anger, chagrin, disappointment and  
worry, expectedly and naturally associated with a person with physical  
disabilities being denied access . . .” (U.S.D.C. N.D. Cal. Case No.  
3:2006cv07917-MMC, Complaint, ¶¶2, 14, 16);

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 5 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

- 7 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
8 about *October 16, 2006 and February 22, 2007*, was an invitee, guest, patron,  
9 customer . . . [who] suffered bodily injury (including, but not limited to,  
10 fatigue, stress, strain and pain in wheeling and attempting to and/or  
11 transferring around, through, up and over architectural barriers), physical  
12 discomfort, emotional distress, mental distress, mental suffering, mental  
13 anguish, which includes, but is not limited to, shame, humiliation,  
14 embarrassment, anger, chagrin, disappointment and worry, expectedly and  
15 naturally associated with a person with physical disabilities being denied  
16 access . . .” (U.S.D.C. N.D. Cal. Case No. 3:2007cv01566-PJH, Complaint,  
17 ¶¶2, 14, 25, 27);
- 18 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
19 about *October 25, 2006, January 12, 2007 and January 26, 2007*, was an  
20 invitee, guest, patron, customer . . . [who] suffered bodily injury. . . .  
21 Specifically, as a legal result of defendants negligence in the design,  
22 construction and maintenance of the existing counter self plaintiff CRAIG  
23 YATES struck it with his shoulder causing trauma to it. Further, plaintiff  
24 CRAIG YATES suffered emotional distress, mental distress, mental suffering,  
25 mental anguish, which includes, but is not limited to, shame, humiliation,  
embarrassment, anger, disappointment and worry, expectedly and naturally  
associated with a person with physical disabilities being denied access . . .”  
(U.S.D.C. N.D. Cal. Case No. 3:2007cv03033-EDL, Complaint, ¶¶2, 14, 15,  
22, 24);
- 26 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
27 about *December 22, 2006, January 26, 2007, March 29, 2007 and June 23,  
2007*, was an invitee, guest, patron, customer . . . [who] suffered physical  
28 discomfort, emotional distress, mental distress, mental suffering, mental  
anguish, which includes, but is not limited to, shame, humiliation,  
embarrassment, anger, chagrin, disappointment and worry, expectedly and  
naturally associated with a person with physical disabilities being denied  
access . . .” (U.S.D.C. N.D. Cal. Case No. 3:2007cv04177-EDL, Complaint,  
¶¶2, 14, 27, 29);
- 29 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
30 about *December 22, 2006, January 26, 2007, March 29, 2007, June 23, 2007  
and July 22, 2007*, was an invitee, guest, patron, customer . . . [who] suffered  
bodily injury. . . .” (U.S.D.C. N.D. Cal. Case No. 3:2007cv04395-JCS,  
Complaint, ¶¶2, 14, 32);

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 6 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

- 7 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
8 about *December 22, 2006 and January 26, 2007*, was an invitee, guest, patron,  
9 customer . . . [who] suffered bodily injury (including, but not limited to,  
10 fatigue, stress, strain and pain in wheeling and attempting to and/or  
11 transferring around, through, up and over architectural barriers), physical  
12 discomfort, emotional distress, mental distress, mental suffering, mental  
13 anguish, which includes, but is not limited to, shame, humiliation,  
14 embarrassment, anger, chagrin, disappointment and worry, expectedly and  
15 naturally associated with a person with physical disabilities being denied  
16 access . . .” (U.S.D.C. N.D. Cal. Case No. 3:2007cv02657-JL, Complaint, ¶¶2,  
17 14, 24);
- 18 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
19 about *May 16, 2007, May 23, 2007, July 5, 2007, May 12, 2008 and July 16,*  
20 *2008*, was an invitee, guest, patron, customer . . . [who] suffered emotional  
21 distress, mental distress, mental suffering, mental anguish, which includes, but  
22 is not limited to, shame, humiliation, embarrassment, anger, disappointment  
23 and worry, expectedly and naturally associated with a person with physical  
24 disabilities being denied access, all to his damages as prayed hereinafter in an  
25 amount within the jurisdiction of this court.” (U.S.D.C. N.D. Cal. Case No.  
26 4:2008cv03914-CW, Complaint, ¶¶2, 14, 33);
- 27 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
28 about *May 17, 2007, May 24, 2007 and October 11, 2007*, was an invitee,  
guest, patron, customer . . . [who] suffered emotional distress, mental distress,  
mental suffering, mental anguish, which includes, but is not limited to, shame,  
humiliation, embarrassment, anger, disappointment and worry, expectedly and  
naturally associated with a person with physical disabilities being denied  
access, all to his damages as prayed hereinafter in an amount within the  
jurisdiction of this court.” (U.S.D.C. N.D. Cal. Case No.  
3:2007cv05485-MMC, Complaint, ¶¶2, 14, 27);
- “On or about *June 13, 2007, June 22, 2007 and September 18, 2007*, . . .  
plaintiff’s . . . injuries . . .” (SF Sup. Ct. Case No. CGC-07-467642,  
Complaint, ¶¶2, 14, 31, 34, 57);
- “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
about *June 13, 2007, June 22, 2007 and October 22, 2007*, was an invitee,  
guest, patron, customer . . . [who] suffered emotional distress, mental distress,  
mental suffering, mental anguish, which includes, but is not limited to, shame,  
humiliation, embarrassment, anger, disappointment and worry, expectedly and  
naturally associated with a person with physical disabilities being denied  
access, all to his damages as prayed hereinafter in an amount within the  
jurisdiction of this court.” (SF Sup. Ct. Case No. CGC-07-469605, Complaint,  
¶¶2, 14, 24);

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 7 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

- 7 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
8 about *July 1, 2007, August 25, 2007, October 16, 2007 and November 2, 2007*, was an invitee, guest, patron, customer . . . [who] suffered bodily injury. . . .” (U.S.D.C. N.D. Cal. Case No. 3:2007cv06498-WHA, Complaint, ¶¶2, 14, 31);
- 9 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
10 about *July 21, 2007, January 15, 2008, March 24, 2008 and March 27, 2008*, was an invitee, guest, patron, customer . . . [who] suffered emotional distress, mental distress, mental suffering, mental anguish, which includes, but is not limited to, shame, humiliation, embarrassment, anger, disappointment and worry, expectedly and naturally associated with a person with physical disabilities being denied access, all to his damages as prayed hereinafter in an amount within the jurisdiction of this court.” (U.S.D.C. N.D. Cal. Case No. 3:2008cv02165-SI, Complaint, ¶¶2, 14, 30);
- 11 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
12 about *August 26, 2007, September 4, 2007, September 8, 2007, September 9, 2007 and October 17, 18 2007*, was an invitee, guest, patron, customer . . . [who] stressed and strained himself in his wheelchair attempting this maneuver, resulting in trauma to his one partially usable right upper extremities.” (SF Sup. Ct. Case No. CGC-07-469073, Complaint, ¶¶2, 14, 15);
- 13 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
14 about *August 13, 2006, August 30, 2006, May 19, 2007, June 22, 2007, July 18, 2007 and December 17, 2007*, was an invitee, guest, patron, customer . . . [and suffered] injuries.” (SF Sup. Ct. Case No. CGC-08-470951, Complaint, ¶¶2, 14, 35);
- 15 • Plaintiff CRAIG YATES is a person with physical disabilities [and] suffered physical stress, strain and exhaustion in attempting to negotiate barriers at the subject Union Square, suffered physical pain and discomfort, and other physical, psychological, and emotional damages, pain and suffering, all to his damages. (SF Sup. Ct. Case No. CGC-08-473176, Complaint, ¶¶2, 17);
- 16 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
17 about *March 29, 2007, August 30, 2007, October 18, 2007, April 11, 2008 and May 6, 2008*, was an invitee, guest, patron, customer . . . [who] suffered emotional distress, mental distress, mental suffering, mental anguish, which includes, but is not limited to, shame, humiliation, embarrassment, anger, disappointment and worry, expectedly and naturally associated with a person with physical disabilities being denied access, all to his damages as prayed hereinafter in an amount within the jurisdiction of this court.” (U.S.D.C. N.D. Cal. Case No. 3:2008cv03004-EDL, Complaint, ¶¶2, 14, 32);

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 8 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

- 7 • “On or about *May 19, 2007, June 15, 2007, July 24, 2007 and February 16, 2008*, plaintiff CRAIG YATES was an invitee and guest . . .” and alleges no physical injuries. (SF Sup. Ct. Case No. CGC-08-473260);
- 8 • Plaintiff CRAIG YATES is a person with physical disabilities who, on or about *August 1, 2007, August 7, 2007, August 12, 2007, December 17, 2007 and March 7, 2008*, was an invitee, guest, patron, customer . . . [and suffered] injuries.” (SF Sup. Ct. Case No. CGC-08-470951, Complaint, ¶¶2, 14, 35);
- 9 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or about *October 26, 2007, October 28, 2007, December 2, 2007, February 17, 2008 and March 19, 2008*, was an invitee, guest, patron, customer . . . [who] suffered bodily injury . . . including, but not limited to, fatigue, stress, strain and pain in wheeling and attempting to and/or transferring up, on, down, to, over, around and through architectural barriers. Specifically, as a legal result of defendants negligence in the design, construction and maintenance of the existing entry doors, placement of loose mat on a slope and excessive door pressure, plaintiff suffered continuous, repetitive and cumulative trauma to his upper extremity while attempting to open a double door.” (U.S.D.C. N.D. Cal. Case No. 3:2008cv01877-WHA, Complaint, ¶¶2, 14, 33, 35);
- 10 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or about *September 9, 2007, September 16, 2007, September 23, 2007, October 17, 2007, January 24, 2008, February 16, 2008, March 5, 2008, March 31, 2008, April 3, 2008 and April 16, 2008*, was an invitee, guest, patron, customer . . . [who] suffered bodily injury . . . including, but not limited to, fatigue, stress, strain and pain in wheeling and attempting to and/or transferring up, on, down, to, over, around and through architectural barriers. Specifically, as a legal result of defendants negligence in the design, construction and maintenance of the existing the west side entry door plaintiff suffered 16 continuous, repetitive and cumulative trauma to his right upper extremity while attempting to pull the door open without strike side clearance.” (U.S.D.C. N.D. Cal. Case No. 3:2008cv02293-PJH, Complaint, ¶¶2, 14, 44, 46);
- 11 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or about *September 16, 2007, January 24, 2008, February 17, 2008, March 6, 2008, March 24, 2008, April 3, 2008, April 16, 2008 and May 22, 2008*, was an invitee, guest, patron, customer . . . [who] suffered emotional distress, mental distress, mental suffering, mental anguish, which includes, but is not limited to, shame, humiliation, embarrassment, anger, disappointment and worry, expectedly and naturally associated with a person with physical disabilities being denied access, all to his damages as prayed hereinafter in an amount within the jurisdiction of this court.” (U.S.D.C. N.D. Cal. Case No. 3:2008cv03183-BZ, Complaint, ¶¶2, 14, 29);

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 9 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

- 7 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
8 about *October 18, 2007 and October 26, 2007*, was an invitee, guest, patron,  
9 customer . . . [who] suffered bodily injury . . . including, but not limited to,  
10 fatigue, stress, strain and pain in wheeling and attempting to and/or  
transferring up, on, down, to, over, around and through architectural barriers.  
Specifically, as a legal result of defendants negligence in the design,  
construction and maintenance of the existing unisex restroom door, plaintiff  
suffered continuous, repetitive and cumulative trauma to upper extremities  
while attempting to open said door without strike side clearance.” (U.S.D.C.  
N.D. Cal. Case No. 3:2008cv02734-SI, Complaint, ¶¶2, 14, 30, 33);
- 11 • “Plaintiff CRAIG YATES is a person with physical disabilities who, on or  
12 about *November 29, 2007, March 5, 2008, April 3, 2008 and May 4, 2008*,  
13 was an invitee, guest, patron, customer . . . [who] suffered bodily injury.”  
(U.S.D.C. N.D. Cal. Case No. 4:2008cv02545-CW, Complaint, ¶¶2, 14, 30);

14 Plaintiff CRAIG YATES’s repeated bodily injury and emotional distress claims over the  
15 course of four years calls into serious question the veracity of those claims. Indeed, his claims are  
16 reminiscent of another individually named plaintiff JAREK MOLSKI who also asserted repeated  
17 bodily injury and emotional distress claims over many years in hundreds of lawsuit and whom the  
18 United States District Court for the Central District of California found to be a vexatious litigant  
19 sanctioned the law firm representing plaintiff Molski, Thomas E. Frankovich, a Professional Law  
20 Corporation. (See Order Granting Defendant’s Motion to Declare Jarek Molski a Vexatious Litigant  
21 and for a Pre-filing Order Requiring Molski to Obtain Leave of Court Before Filing Any Other  
22 Claims under the Americans with Disabilities Act [the “Vexatious Litigant Order”] in *Molski et al v.*  
23 *Mandarin Touch Restaurant et al*, U.S.D.C. C.D. Cal. Case No. 2:04-cv-00450-ER attached hereto  
24 as Exhibit “A.”)

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1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 10 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*7 The Ninth Circuit upheld the Vexatious Litigant Order. (See generally Molski v. Evergreen  
8 Dynasty Corp. (9<sup>th</sup> Cir.2007) 500 F.3d 1047, 1062, Part V attached hereto as Exhibit "B.") In  
9 upholding the district court's Vexatious Litigant Order, the Ninth Circuit noted:10 [I]n 2004 the Frankovich Group filed at least 223 nearly identical lawsuits in the  
11 Northern and Central Districts of California, that the complaints all stated an ADA  
12 claim and the same four claims under California state law, that the damages requested  
13 in each case were identical and that, other than superficial alteration of the names and  
14 facts, the complaints were textually identical down to the typos." *Id.* at 1052-53. We  
15 also considered and agreed with the district court's observation that many of the  
16 claims of bodily injury found in the various complaints were "contrived." *Id.* at 1053.  
17 Specifically, we noted that: [t]he court found in particular that "the rate of physical  
18 injury defies common sense," noting that the plaintiffs alleged similar injuries  
19 sustained in a similar fashion at different businesses on the same day. The court noted  
20 that the similar injuries did not excuse the existence of accessibility barriers, but that  
21 its finding that the injury claims were contrived was "merely a recognition of the fact  
22 that reasonable people, once injured, tend to take affirmative steps to avoid similar  
23 physical injuries, rather than repeat that same activity 400 times (or five times in the  
24 same day)."25 Molski, *supra*, 500 F.3d at 1053-54 (Exhibit "B" hereto [internal citations omitted, emphasis  
26 added]).27 Defendant PURGATORY, INC., submits that plaintiff CRAIG YATES, represented by  
28 Thomas E. Frankovich, a Professional Law Corporation, has engaged in the same litigation tactics as  
plaintiff JAREK MOLSKI. Thus, defendant respectfully contends that this case involves the same  
parties and is based on the same or similar claims as the pending cases before this Court, the Marin  
County Superior Court and the federal district court for the Northern District of California and arises  
from the same or substantially identical transactions, incidents, or events requiring the determination  
of the same or substantially identical questions of law or fact within the meaning of Rule 3.300(a) of  
the California Rules of Court.29 In addition, given the repetitive claims of the bodily injury and emotional distress allegations  
30 in these suits, the defendants have a right not only to challenge the legitimacy of the allegations, but  
31 should be afforded the opportunity to question comparative fault and apportionment of any

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 11 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*

7 legitimate claims of personal injuries. Consequently, defendant PURGATORY, INC., submits that, for judicial economy reasons assignment to a single judge of all cases in which plaintiff CRAIG 8 YATES is a party is warranted because litigation of these claims will require substantial duplication of judicial resources if heard by different judges within the meaning of Rule 3.300(a) of the 9 California Rules of Court.

10 **Plaintiff: DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES:  
11 HELPING YOU HELP OTHERS**12 In every complaint filed by an individual plaintiff as identified in this Notice of Related  
13 Cases, plaintiff DISABILITY RIGHTS ENFORCEMENT EDUCATION SERVICES: HELPING  
14 YOU HELP OTHERS is also a party and describes itself as a nonprofit organization advocating on  
15 disability issues and seeks redress along with the individual plaintiff. In an extraordinary number of  
16 the cases identified herein, there is typically a challenge made to plaintiff DISABILITY RIGHTS  
17 ENFORCEMENT EDUCATION SERVICES: HELPING YOU HELP OTHERS's standing to sue.18 An organization may have standing to bring suit on behalf of its members if (1) its members  
19 would otherwise have standing to sue in their own right, (2) the interests it seeks to protect are  
20 germane to the organization's purpose, and (3) the participation of individual members in the lawsuit  
21 is not required. (Hunt v. Washington Apple Advertising Comm'n (1977) 432 U.S. 333, 343. The  
22 first two requirements for organizational standing are constitutional; the third is prudential. (Or.  
23 Advocacy Ctr v. Mink (2003) 322 F.3d 1101, 1109.24 Under the prudential standing doctrine, "the individual plaintiff is in the best position to  
25 litigate his own claims," (Molski v. Kahn Winery (C.D.Cal.2005) 381 F.Supp.2d 1209, 1210; see  
26 also Allen v. Wright (1984) 468 U.S. 737, 751 ["general prohibition on a litigant's raising another  
27 person's legal rights"]); Gladstone, Realtors v. Village of Bellwood (1979) 441 U.S. 91, 100 ["Even  
28 when a case falls within these constitutional boundaries, a plaintiff may still lack standing under the

1 PLAINTIFF/PETITIONER: **CRAIG YATES et al.**

2 CASE NUMBER:

3 DEFENDANT/RESPONDENT: **LA ROCCA'S CORNER, et al.**4 **CGC-07-469605**5 **ATTACHMENT (Number): 2 Page 12 of 12**6 *(This Attachment may be used with any Judicial Council form.) (Add pages as required)*  
prudential principles by which the judiciary seeks ... to limit access to the federal courts to those  
litigants best suited to assert a particular claim”].)7 Because plaintiff DISABILITY RIGHTS ENFORCEMENT EDUCATION SERVICES:  
8 HELPING YOU HELP OTHERS is a plaintiff along with every individually named plaintiff in this  
9 Notice of Related Cases, defendant PURGATORY, INC., submits that this case involves the same  
10 parties and is based on the same or similar claims as the pending cases before this Court, the Marin  
11 County Superior Court and the federal district courts for the Northern, Central and Eastern District of  
12 California.13 In addition, because there is the same standing question inherent in each case in which  
14 plaintiff DISABILITY RIGHTS ENFORCEMENT EDUCATION SERVICES: HELPING YOU  
15 HELP OTHERS seeks redress along with an individually named plaintiff, defendant PURGATORY,  
16 INC., submits that, for judicial economy reasons assignment to a single judge of all cases in which  
17 plaintiff DISABILITY RIGHTS ENFORCEMENT EDUCATION SERVICES: HELPING YOU  
18 HELP OTHERS is a party is warranted because litigation of its claims will require substantial  
19 duplication of judicial resources if heard by different judges within the meaning of Rule 3.300(a) of  
20 the California Rules of Court.

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# Exhibit A

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1 before filing any other claims under the Americans With  
 2 Disabilities Act. The matter came on for hearing on  
 3 November 15, 2004, the Honorable Edward Rafeedie  
 4 presiding. The Court has concluded that a pre-filing  
 5 order is appropriate for the reasons discussed below.

6 **Statement of Facts**

7       a. Plaintiff's History of Litigation

8 Plaintiff Jarek Molski is a physically disabled  
 9 individual who relies on a wheelchair for ambulation.  
 10 Although he resides in Woodland Hills, he has filed  
 11 hundreds<sup>2</sup> of lawsuits in federal courts throughout the  
 12 state of California.

13       A review of the cases submitted to this Court  
 14 reveals that many are nearly identical in terms of the  
 15 facts alleged, the claims presented, and the damages  
 16 requested. In virtually every complaint involving a  
 17 restaurant or winery, Molski initially reports having  
 18 trouble finding adequate van-accessible parking. Then,  
 19 almost uniformly, he reports difficulties entering the  
 20 business, often citing ramps that are too steep, or  
 21 doors that require more pressure to open than is

22  
 23       <sup>2</sup> Defendant's Memorandum of Points and Authorities  
 24 asserts that Molski has filed 334 lawsuits in the federal courts  
 25 since 1998. During the hearing, Plaintiff's counsel stated that  
 26 Molski had filed approximately 400 suits, and the Court will  
 27 accept that number. Despite this considerable number of filings,  
 28 Molski has never litigated a suit on the merits in the Central  
 District of California. The vast majority of his claims settle,  
 with a significant minority dismissed for lack of prosecution or  
 violation of a court order.

1 permitted by law. After entering the business, Molski  
2 generally complains that the service counter is too  
3 high. Virtually every complaint ends with Molski  
4 venturing to the restroom, which inevitably suffers  
5 from at least one violation. Molski almost always  
6 suffers some injury - typically to the upper  
7 extremities - in the process of transferring himself  
8 from his wheelchair to the toilet. He also regularly  
9 complains of suffering humiliation or other emotional  
10 distress from the experience. Molski's prayer for  
11 relief routinely includes both a request for injunctive  
12 relief and damages of \$4,000 per day, for each day  
13 after his visit until the facility is brought up to ADA  
14 standards.

15 The facts of the instant case are predictably  
16 similar. On January 25, 2003, Molski's complaint  
17 alleges that he had dinner at the Mandarin Touch  
18 Restaurant in Solvang, California. After dinner,  
19 Molski attempted to use the restroom, but found that  
20 the entrance was too narrow. Molski then alleges that,  
21 as he was attempting to leave the restroom, his hand  
22 became "caught in the exterior door causing trauma to  
23 it." The lawsuit asks for injunctive relief to bring  
24 the restaurant up to ADA standards, and damages of not  
25 less than \$4,000 per day, for each day after his visit  
26 until such time as the restaurant is made fully  
27 accessible.

28

1       b. The Americans With Disabilities Act

2           The Americans with Disabilities Act ("ADA"), 42  
 3 U.S.C. § 12101, et seq., was signed into law in 1990.  
 4 Its stated goal is to remedy discrimination against  
 5 individuals with disabilities.<sup>3</sup> To that end, Title III  
 6 of the ADA, 42 U.S.C. § 12181, et seq., requires the  
 7 removal of structural barriers in existing public  
 8 accommodations "where such removal is readily  
 9 achievable."<sup>4</sup> 42 U.S.C. § 12182(b)(2)(A)(iv). See also  
 10 28 C.F.R. § 36.304 (2004) (listing examples of, and  
 11 prioritizing, readily achievable repairs). Where  
 12 removal of the barrier is not readily achievable, the  
 13 facility must provide access "through alternative

14

15

<sup>3</sup> The ADA states:

16           It is the purpose of this Act--

17           (1) to provide a clear and comprehensive  
 18 national mandate for the elimination of  
 discrimination against individuals with  
 disabilities;

19           (2) to provide clear, strong, consistent,  
 enforceable standards addressing discrimination  
 against individuals with disabilities;

20           (3) to ensure that the Federal Government plays  
 a central role in enforcing the standards  
 established in this Act on behalf of individuals  
 with disabilities; and

21           (4) to invoke the sweep of congressional  
 authority, including the power to enforce the  
 fourteenth amendment and to regulate commerce, in  
 order to address the major areas of discrimination  
 faced day-to-day by people with disabilities.

22           42 U.S.C. § 12101(b).

23

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25           <sup>4</sup> The ADA defines "readily achievable" as "easily  
 26 accomplishable and able to be carried out without much difficulty  
 27 or expense." 42 U.S.C. § 12181 (9).

1 methods if such methods are readily achievable." 42  
 2 U.S.C. § 12182(b)(2)(A)(v).

3 To enforce Title III, the ADA contains both a  
 4 private right of action, 42 U.S.C. § 12188(a), and a  
 5 right of action for the Attorney General, 42 U.S.C. §  
 6 12188(b). While the Attorney General may seek monetary  
 7 damages on behalf of an aggrieved party, 42 U.S.C. §  
 8 12188(b)(2)(B), the only remedies available under the  
 9 private right of action are injunctive relief and the  
 10 recovery of attorneys' fees and costs. 42 U.S.C. §  
 11 12188(a)(1); 42 U.S.C. § 2000a-3(a). By providing  
 12 different remedies for public and private enforcement,  
 13 Congress clearly demonstrated its intent to prevent  
 14 private plaintiffs from recovering money damages under  
 15 the ADA. American Bus Ass'n v. Slater, 231 F.3d 1, 5  
 16 (D.C. Cir. 2000) ("By specifying the circumstances  
 17 under which monetary relief will be available, Congress  
 18 evinced its intent that damages would be available in  
 19 no others.").

20 However, enterprising plaintiffs (and their  
 21 attorneys) have found a way to circumvent the will of  
 22 Congress by seeking money damages while retaining  
 23 federal jurisdiction. Because a violation of the ADA  
 24 also constitutes a violation of California's Unruh  
 25 Civil Rights Act, Cal. Civ. Code § 51(f), and the  
 26 California Disabled Persons Act ("CDPA"), Cal. Civ.  
 27 Code § 54(c), Plaintiffs can sue in federal court for  
 28 injunctive relief under the ADA, and tack on state law

1 claims for money damages under the Unruh Act and CDPA.  
2 See, e.g., Moeller v. Taco Bell Corp., 220 F.R.D. 604,  
3 607 (N.D. Cal. 2004).

4 The ability to profit from ADA litigation has given  
5 birth to what one Court described as "a cottage  
6 industry." Rodriguez v. Investco, L.L.C., 305 F. Supp.  
7 2d 1278, 1280-81 (M.D. Fla. 2004). The scheme is  
8 simple: an unscrupulous law firm sends a disabled  
9 individual to as many businesses as possible, in order  
10 to have him aggressively seek out any and all  
11 violations of the ADA. Then, rather than simply  
12 informing a business of the violations, and attempting  
13 to remedy the matter through "conciliation and  
14 voluntary compliance," id. at 1281, a lawsuit is filed,  
15 requesting damage awards that would put many of the  
16 targeted establishments out of business. Faced with  
17 the specter of costly litigation and a potentially  
18 fatal judgment against them, most businesses quickly  
19 settle the matter.

20 The result of this scheme is that "the means for  
21 enforcing the ADA (attorney's fees) have become more  
22 important and desirable than the end (accessibility for  
23 disabled individuals)." Brother v. Tiger Partner, LLC,  
24 331 F. Supp. 2d 1368, 1375 (M.D. Fla. 2004). Serial  
25 plaintiffs, like Molski, serve as "professional pawn[s]  
26 in an ongoing scheme to bilk attorney's fees."  
27 Rodriguez, 305 F. Supp. 2d at 1285. It is a "type of  
28 shotgun litigation [that] undermines both the spirit

1 and purpose of the ADA." Brother, 331 F. Supp. 2d at  
 2 1375.<sup>5</sup>

3 **Analysis**

4 a. Authority to Issue Pre-Filing Order

5 The District Court has the inherent power to levy  
 6 sanctions in response to abusive litigation practices.  
 7 See, e.g., Roadway Express, Inc. v. Piper, 447 U.S.  
 8 752, 765-66 (1980). This inherent power is augmented  
 9 by Local Rule 83-8, which empowers this Court to craft  
 10 an appropriate sanction to defend against vexatious  
 11 litigation, including, but not limited to, "a directive  
 12 to the Clerk not to accept further filings from the  
 13 litigant without payment of normal filing fees and/or  
 14 without written authorization from a judge of the Court  
 15 or a Magistrate Judge, issued upon such showing of the  
 16 evidence supporting the claim as the judge may  
 17 require."<sup>6</sup> C.D. Cal. Local Rule 83-8.2.

18

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19       <sup>5</sup> The Brother court expressed serious concerns about the  
 20 "vexatious litigation tactics" employed by serial ADA plaintiffs,  
 21 and called upon the Congress to formulate a legislative solution  
 22 to the problem. 331 F. Supp. 2d at 1375. Pending legislative  
 23 reform, however, "[t]he appropriate mechanism for addressing  
 24 allegations of such behavior lies with the ethics and  
 25 disciplinary bodies of State bar associations or with the court  
 where the litigation is pending." ADA Notification Act: Hearings  
on H.R. 3590, before the Subcomm. on the Constitution of the  
House Comm. on the Judiciary (May 18, 2000), available at:  
[http://commdocs.house.gov/committees/judiciary/hju66728.000/hju66728\\_0.htm](http://commdocs.house.gov/committees/judiciary/hju66728.000/hju66728_0.htm).

26

27       <sup>6</sup> Local Rule 83-8 also states:  
 28       It is the policy of the Court to discourage  
 vexatious litigation and to provide persons who are  
 subjected to vexatious litigation with security

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1       b. Standard for Vexatious Litigant

2       In deciding whether or not to restrict a litigant's  
 3 access to the courts, "[u]ltimately, the question the  
 4 court must answer is whether a litigant who has a  
 5 history of vexatious litigation is likely to continue  
 6 to abuse the judicial process and harass other  
 7 parties." Safir v. United States Lines, Inc., 792 F.2d  
 8 19, 23 (2nd Cir. 1986). In doing so, the Court should  
 9 look to five factors: (1) the litigant's history of  
 10 litigation and in particular whether it entailed  
 11 vexatious, harassing or duplicative lawsuits; (2) the  
 12 litigant's motive in pursuing the litigation, e.g.,  
 13 does the litigant have an objective good faith  
 14 expectation of prevailing?; (3) whether the litigant is  
 15 represented by counsel; (4) whether the litigant has  
 16 caused needless expense to other parties or has posed  
 17 an unnecessary burden on the courts and their  
 18 personnel; and (5) whether other sanctions would be  
 19 adequate to protect the courts and other parties. See  
 20 id.

21       1. Litigant's History of Litigation

22       A "vexatious suit" is a "lawsuit instituted

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23  
 24       against the costs of defending against such  
 25 litigation and appropriate orders to control such  
 26 litigation. It is the intent of this rule to  
 27 augment the inherent power of the Court to control  
 28 vexatious litigation and nothing in this rule shall  
 be construed to limit the Court's inherent power in  
 that regard.

C.D. Cal. Local Rule 83-8.1.

1 maliciously and without good cause." Black's Law  
2 Dictionary 1596 (8th ed. 2004). After examining  
3 Plaintiff's extensive collection of lawsuits, the Court  
4 believes that most, if not all, were filed as part of a  
5 scheme of systematic extortion, designed to harass and  
6 intimidate business owners into agreeing to cash  
7 settlements.

8 The Court bases this determination on several  
9 considerations. One is the sheer volume of lawsuits  
10 filed by this Plaintiff. Although litigiousness alone  
11 is insufficient to justify a restriction on filing  
12 activities, see In re Oliver, 682 F.2d 443, 446 (3rd  
13 Cir. 1982), it is a factor the Court considers  
14 indicative of an intent to harass. See De Long v.  
15 Hennessey, 912 F.2d 1144, 1147 (9th Cir. 1990) (stating  
16 that in order to issue a prefiling order, "[a]t the  
17 least, the record needs to show, in some manner, that  
18 the litigant's activities were numerous or abusive").  
19 Here, Molski's filing are plainly numerous, and, as  
20 discussed throughout this order, abusive as well.

21 Another consideration is the textual and factual  
22 similarity of the complaints filed by Plaintiff. This  
23 too, while not dispositive, is a factor the Court  
24 considers indicative of an intent to harass, as it  
25 suggests that Plaintiff is filing boilerplate  
26 complaints. See In re Powell, 851 F.2d 427, 431 (D.C.  
27 Cir. 1988) (stating that "the district court should  
28 attempt to discern whether the filing of several

1 similar types of actions constitutes an intent to  
2 harass the defendant or the court").

3 Most important, however, is the Court's conclusion  
4 that the allegations contained in Plaintiff's  
5 complaints are contrived and not credible. Although it  
6 is not obvious when looking at an individual complaint,  
7 examining Plaintiff's complaints in the aggregate  
8 reveals a clear intent to harass businesses.

9 For example, in Molski v. El 7 Mares Restaurant,  
10 Case No. C04-1882 (N.D. Cal. 2004), Molski claims that,  
11 on May 20, 2003, he and significant other, Brygida  
12 Molski, attended the El 7 Mares Restaurant for the  
13 purposes of dining out. Molski alleges that the  
14 restaurant lacked adequate handicapped parking, and  
15 that the food counter was too high. After the meal,  
16 Molski attempted to use the restroom, but because the  
17 toilet's grab bars were improperly installed, he  
18 injured his shoulders in the process of transferring  
19 himself from his wheelchair to the toilet. Thereafter,  
20 he was unable to wash his hands because of the  
21 lavatory's design.

22 Although this complaint appears credible standing  
23 alone, its validity is undermined when viewed alongside  
24 Molski's other complaints. In Molski v. Casa De Fruta,  
25 L.P., Case No. C04-1981 (N.D. Cal. 2004), Molski  
26 alleges that he sustained nearly identical injuries on  
27 the exact same day, May 20, 2003. In Casa de Fruta,  
28 Molski alleges that he and significant other, Brygida

1 Molski, patronized Casa de Fruta for the purpose of  
2 wine tasting. On arrival, Molski was again unable to  
3 locate van accessible parking. Once inside, Molski  
4 again found the counter to be too high. After wine  
5 tasting, Molski again decided to use the restroom, and  
6 again, injured his upper extremities while in the  
7 process of transferring himself to the toilet.  
8 Thereafter, he was once again unable to wash his hands  
9 due to the design of the lavatory.

10 This was, apparently, not the end of Molski's day.  
11 In Molski v. Rapazzini Winery, Case No. C04-1881 (N.D.  
12 Cal. 2004), Molski once again alleges that he sustained  
13 nearly identical injuries on the exact same day, May  
14 20, 2003. Molski, again accompanied by Brygida Molski,  
15 claims he visited the Rapazzini Winery for the purpose  
16 of wine tasting. Again, Molski complains that the  
17 parking lot lacked adequate handicapped van accessible  
18 parking. Upon entering the establishment, he  
19 discovered that the counter was too high. After  
20 tasting wine, he again needed to use the restroom. In  
21 the course of transferring himself from his wheelchair  
22 to the toilet, he injured himself yet again.  
23 Thereafter, he was again unable to wash his hands due  
24 to the lavatory's design.

25 The Court is tempted to exclaim: "what a lousy  
26 day!" It would be highly unusual - to say the least -  
27 for anyone to sustain two injuries, let alone three, in  
28 a single day, each of which necessitated a separate

1 federal lawsuit. But in Molski's case, May 20, 2003,  
2 was simply business as usual. Molski filed 13 separate  
3 complaints for essentially identical injuries sustained  
4 between May 19, 2003 and May 23, 2003. The Court  
5 simply does not believe that Molski suffered 13 nearly  
6 identical injuries, generally to the same part of his  
7 body, in the course of performing the same activity,  
8 over a five-day period. This is to say nothing of the  
9 hundreds of other lawsuits Molski has filed over the  
10 last four years, many of which make nearly identical  
11 allegations. The record before this Court leads it to  
12 conclude that these suits were filed maliciously, in  
13 order to extort a cash settlement.

14 It is possible, even likely, that many of the  
15 businesses sued were not in full compliance with the  
16 ADA. However, "[f]or purposes of imposing sanctions  
17 under the inherent power of the court, a finding of bad  
18 faith 'does not require that the legal and factual  
19 basis for the action prove totally frivolous; where a  
20 litigant is substantially motivated by vindictiveness,  
21 obduracy, or mala fides, the assertion of a colorable  
22 claim will not bar the assessment of [sanctions].'"  
23 Fink v. Gomez, 239 F.3d 989, 992 (9th Cir.

24 2001) (citations omitted). See also Vollmer v. Selden,  
25 350 F.3d 656, 660 (7th Cir. 2003) (a non-frivolous  
26 filing may be sanctionable if filed for an improper  
27 purpose, such as extortion). So, even if the  
28 businesses sued by Molski were in violation of the ADA,

1 this fact is outweighed by the Court's finding that he  
 2 acted in bad faith, for the improper purpose of  
 3 extorting a settlement. The Court therefore finds that  
 4 Molski has a considerable history of vexatious  
 5 litigation. See Brother, 331 F. Supp. 2d at 1375  
 6 (describing a similar pattern of "shotgun" ADA  
 7 litigation, designed to extort attorneys' fees, as  
 8 "vexatious litigation").

9       2. Litigant's Motive

10      The next factor to be considered is the litigant's  
 11 motive in bringing the lawsuit. Molski claims that his  
 12 motivation was to obtain injunctive relief, and that  
 13 the funds recovered were largely used to offset his  
 14 legal expenses. But this explanation is undercut by  
 15 his course of action. The ADA itself allows private  
 16 plaintiffs to sue for injunctive relief, and to recover  
 17 their attorneys' fees and costs. It does not allow for  
 18 any award of money damages to a private plaintiff. If  
 19 Molski's motivation was genuinely to obtain injunctive  
 20 relief and recover his legal costs, he could sue  
 21 entirely under the ADA. But he does not do that.  
 22 Instead, Molski almost always raises additional state  
 23 law claims under the CDPA, California Health & Safety  
 24 Code, the Unruh Civil Rights Act, and California Bus. &  
 25 Prof. Code § 17200, which allow for the recovery of  
 26 money damages.

27      Clearly, raising multiple claims, by itself, is not  
 28 unethical or vexatious. However, it is consistent with

1 an overall pattern of behavior that demonstrates  
 2 Molski's motivation is, ultimately, to extract a cash  
 3 settlement. The threat of significant money damages<sup>7</sup> is  
 4 a much more effective inducement to settle than merely  
 5 requesting a court order to make "readily achievable"  
 6 repairs. And that threat appears to be working.  
 7 Almost as startling as the sheer number of complaints  
 8 Molski has filed, is the number of those claims that  
 9 settle. Of the hundreds of cases Molski has filed in  
 10 this district, not one has ever been litigated on the  
 11 merits. The overwhelming majority settle, with a  
 12 significant minority dismissed for violation of a court  
 13 order, or failure to prosecute the claim. This not  
 14 only calls into question Molski's good faith  
 15 expectation of prevailing on the merits of his claim,  
 16 but also suggests that he does not even have a  
 17 reasonable expectation (or intention) of litigating the  
 18 suit on the merits.<sup>8</sup> Molski's m.o. is clear: sue,  
 19 settle, and move on to the next suit.

20

21

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22       <sup>7</sup> And the damages requested are quite significant. Molski  
 23 routinely asks for \$4,000 per day, for every day from his visit  
 24 until the repairs are completed. And Molski often waits a year  
 25 or more before filing suit. In the instant case, the purported  
 violation took place on January 25, 2003, but the suit was not  
 filed until January 23, 2004. That delay alone would be worth  
 \$1,452,000 if Molski received the damages requested.

26

27

28

<sup>8</sup> Additionally, given Molski's considerable history of  
 making questionable claims, a jury could reasonably refuse to  
 credit his testimony. This further weakens the likelihood of  
 Molski prevailing on the merits of his claims.

1       3. Representation By Counsel

2       The next factor is whether or not Molski is  
3 represented by counsel. Molski has been represented by  
4 counsel in every lawsuit that this Court is aware of.  
5 Although courts are generally protective of pro se  
6 litigants, this same protection does not apply to  
7 litigants represented by counsel, and thus, this factor  
8 also weighs against Plaintiff. See Iwachiw v. N.Y. City  
9 Bd. of Elections, 273 F. Supp. 2d 224, 228 (E.D. N.Y.  
10 2003).

11      4. Burden on the Courts

12      The fourth factor is whether Plaintiff has caused  
13 needless expense to other parties or unnecessarily  
14 burdened the courts. Because Plaintiff has filed a  
15 countless number of vexatious claims, the Court  
16 believes this factor plainly weighs against him.

17      5. Adequacy of Other Sanctions

18      The final factor is whether sanctions, other than a  
19 pre-filing order, could adequately protect the court  
20 and other parties. For the reasons already discussed,  
21 the Court believes the answer is no. As noted above,  
22 Plaintiff's filings appear meritorious when examined  
23 individually. Their vexatious nature is revealed only  
24 when viewed in the aggregate. Thus, the only effective  
25 way to put a reviewing judge on notice of Plaintiff's  
26 history is to require Molski to file a copy of this  
27 order with every new complaint that he seeks to file.  
28 This would allow the reviewing judge to assess whether

1 Molski had raised a bona fide claim of discrimination  
 2 under the ADA, or whether he was merely bringing  
 3 another vexatious claim in order to strong arm a  
 4 business into settling. See, e.g., In re Billy Roy  
 5 Tyler, 839 F.2d 1290, 1293-94 (8th Cir. 1988) (per  
 6 curiam) (holding that a pre-filing order is appropriate  
 7 where petitioner was able to consistently dress up  
 8 frivolous claims so that, on the face of the complaint,  
 9 they appeared to be meritorious).

10 **Conclusions**

11 The Court is convinced that a pre-filing order is  
 12 justified and necessary to prevent Molski from filing  
 13 any further vexatious complaints. The Court has no  
 14 doubt that Molski's "shotgun litigation" tactics  
 15 "undermine[] both the spirit and purpose of the ADA."  
 16 In addition to misusing a noble law, Molski has plainly  
 17 lied in his filings to this Court. His claims of being  
 18 the innocent victim of hundreds of physical and  
 19 emotional injuries over the last four years defy belief  
 20 and common sense.

21 But Molski has not acted alone. In every action,  
 22 Molski is aided and abetted by his attorneys, often the  
 23 Thomas E. Frankovich Law Offices, and his corporate co-  
 24 Plaintiff, Disability Rights Enforcement Education  
 25 Services: Helping You Help Others ("DREES").<sup>9</sup> For that

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27         <sup>9</sup> The Court notes that it has at least one other case  
 28 currently before it involving DREES and the Frankovich firm. The  
 named plaintiff in that case is Les Jankey. Jankey v. Yang Chow

1 reason, this Court is also issuing orders to show cause  
 2 why the Court should not exercise its inherent power to  
 3 extend similar sanctions to them, for their role in  
 4 facilitating Molski's abusive litigation practices.<sup>10</sup>

5 The Court is also troubled by the fact that Molski  
 6 raises a federal ADA claim in the federal courts, while  
 7 seeking a remedy, money damages, exclusively available  
 8 under state law.<sup>11</sup> Even if proven, the ADA claim would  
 9 not entitle Molski to any relief that is not already  
 10 available under state law. Additionally, the burden of  
 11 proving an ADA claim is necessarily at least as high as  
 12 proving a violation to the California statutes, as a  
 13 violation of the ADA constitutes a *prima facie*  
 14 violation of those statutes. Thus, the ADA claims do  
 15 not extend Molski any benefit in terms of the  
 16 litigation itself, or the remedies he may seek, other  
 17 than allowing him to proceed in the federal courts.

18 For that reason, the Court believes that Molski's  
 19 ADA claims are a sham, used as a pretext to gain access  
 20 to the federal courts, while he pursues remedies that

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21  
 22 Restaurant, CV 03-2239 (C.D. Cal. 2003). While less prolific  
 23 than Molski, the Court's computer docketing program reveals that  
 24 Jankey has filed 36 claims in the Central District, including 21  
 cases filed in 2004 alone. In each of these cases, Jankey was  
 represented by the Frankovich firm, and DREES is a co-plaintiff.

25<sup>10</sup> The Court will also issue an order to show cause why  
 26 DREES's claims should not be dismissed for a lack of standing.

27<sup>11</sup> Although Molski does seek injunctive relief and  
 28 attorneys' fees under the ADA, he also requests them as part of  
 his state law claims.

1 are available - sometimes exclusively - under  
 2 California state law. Therefore, the Court will also  
 3 issue an order to show cause why Molski's ADA complaint  
 4 should not be dismissed, and his remaining claims  
 5 remanded back to state court, for lack of subject  
 6 matter jurisdiction.

7 Sadly, Molski is not unique. The Trevor Law Group,  
 8 and others like it, have achieved infamy in California  
 9 for carrying out a similar scheme under California's  
 10 Unfair Business Practices statute, Bus. & Prof. Code §  
 11 17200 et seq. As one Court described it:

12 The abuse is a kind of legal shakedown  
 13 scheme: Attorneys form a front "watchdog"  
 14 or "consumer" organization. They scour  
 15 public records on the Internet for what are  
 16 often ridiculously minor violations of some  
 17 regulation or law by a small business, and  
 18 sue that business in the name of the front  
 19 organization. Since even frivolous lawsuits  
 20 can have economic nuisance value, the  
 attorneys then contact the business (often  
 owned by immigrants for whom English is a  
 second language), and point out that a  
 quick settlement (usually around a few  
 thousand dollars) would be in the  
 business's long-term interest.

21 People ex rel. Lockyer v. Brar, 115 Cal.  
 22 App. 4th 1315, 1316-17 (2004).

23 These words could apply, almost verbatim, to the  
 24 scheme perpetrated by Molski, DREES, and the Frankovich  
 25 firm. And this Court is not unmindful of the result of  
 26 the Trevor Law Group's abuse of the Unfair Business  
 27 Practices statute. In the most recent election, the  
 28 citizens of California overwhelmingly backed  
 Proposition 64, which greatly limited the private  
 attorney general provision of that law. It is not

1 beyond the realm of belief that the actions of Molski,  
 2 and those like him, pose a similar threat to the ADA.

3       Thus, this pre-filing order serves as a bulwark  
 4 that not only shields the Court and defendants from  
 5 vexatious litigation, but also protects the "purpose  
 6 and spirit of the ADA." It does not limit the right of  
 7 a legitimately aggrieved disabled individual to seek  
 8 legal relief under the ADA; it only prevents abuse of  
 9 that law by professional plaintiffs, like Molski, and  
 10 their lawyers, such as the Frankovich firm, whose  
 11 priority is their own financial gain, and not "the  
 12 elimination of discrimination against individuals with  
 13 disabilities." 42 U.S.C. § 12101(b)(1).

14       For all of these reasons, the Court finds that  
 15 Jarek Molski is a vexatious litigant. Before filing  
 16 any new litigation alleging violations of Title III of  
 17 the ADA in the United States District Court for the  
 18 Central District of California, Molski is hereby  
 19 ordered to file a motion for leave to file a complaint.  
 20 Molski must submit a copy of this order and a copy of  
 21 the proposed filing with every motion for leave. This  
 22 will allow a reviewing judge to assess whether the  
 23 proposed filing is made in good faith, or is simply  
 24 another attempt to extort a settlement.

25 **Rule 11 Sanctions**

26       Defendant has also requested sanctions under Rule  
 27 11. At this point, the Court has not made any formal  
 28 determination regarding the merits of the instant case,

1 and as such, Rule 11 sanctions would be premature. The  
2 request for sanctions is therefore DENIED.

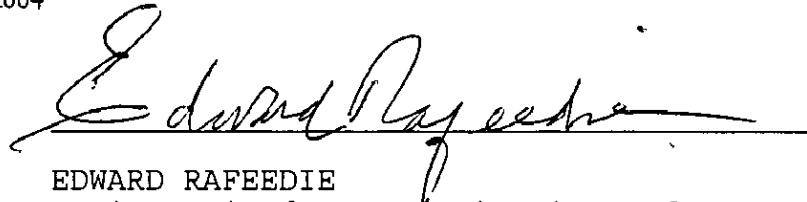
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5 IT IS SO ORDERED.

6 IT IS FURTHER ORDERED that the Clerk of the Court shall  
7 serve, by United States mail or by telefax or by email,  
8 copies of this Order on counsel for the parties in this  
9 matter.

10 Dated: DEC - 9 2004

  
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13 EDWARD RAFEEDIE  
14 Senior United States District Judge  
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# Exhibit B

FOR PUBLICATION  
**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

JAREK MOLSKI; DISABILITY RIGHTS  
ENFORCEMENT EDUCATION SERVICES:  
HELPING YOU HELP OTHERS, a  
California public benefit  
corporation,

*Plaintiffs-Appellants,*  
v.

EVERGREEN DYNASTY CORP., d/b/a  
MANDARIN TOUCH RESTAURANT;  
BRIAN McINERNEY; KATHY S.  
McINERNEY, as joint tenants,

*Defendants-Appellees.*

No. 05-56452  
D.C. No.  
CV-04-00450-ER

OPINION

Appeal from the United States District Court  
for the Central District of California  
Edward Rafeedie, District Judge, Presiding

Argued and Submitted  
April 17, 2007—Pasadena, California

Filed August 31, 2007

Before: Jerome Farris and Ronald M. Gould, Circuit Judges,  
and Kevin Thomas Duffy,\* District Judge.

Per Curiam Opinion

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\*The Honorable Kevin Thomas Duffy, Senior United States District Judge for the Southern District of New York, sitting by designation.

**COUNSEL**

Thomas E. Frankovich and Jennifer L. Steneberg, Thomas E. Frankovich, A Professional Law Corporation, San Francisco, California, for plaintiff-appellant Jarek Molski and appellant Thomas E. Frankovich, A Professional Law Corporation.

Robert H. Appert, San Gabriel, California, for defendants-appellees Mandarin Touch Restaurant and Evergreen Dynasty Corporation.

Alan H. Boon and David B. Ezra, Berger Kahn, Irvine, California, for defendants-appellees Brian McInerney and Kathy McInerney.

Lizbeth V. West, Charles L. Post, and Thadd A. Blizzard, Weintraub Genshlea Chediak, Sacramento, California, for

11058

MOLSKI v. EVERGREEN DYNASTY CORP.

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amici curiae California Restaurant Association, National Federation of Independent Businesses Legal Foundation, California Retailers Association, California Grocers Association, and California Farm Bureau.

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## OPINION

### PER CURIAM:

This appeal presents two orders of the district court for our review. The first order declared Jarek Molski a vexatious litigant and ordered that Molski obtain leave of the court before filing any claims under Title III of the Americans With Disabilities Act (“ADA”) in the United States District Court for the Central District of California. The second order sanctioned the law firm representing Molski, Thomas E. Frankovich, a Professional Law Corporation (“the Frankovich Group”), by requiring it to obtain leave of the court before filing any claims under Title III of the ADA in the Central District of California. We dismiss two of the defendants-appellees from this appeal for lack of jurisdiction. As to the remaining parties, we hold that the district court acted within its sound discretion in entering the pre-filing orders against Molski and against the Frankovich Group, and we affirm the orders of the district court.

### I

Molski, who is paralyzed from the chest down, needs a wheelchair to get around. He has filed about 400 lawsuits in the federal courts within the districts in California. Molski lives in Woodland Hills, California, but frequently travels. According to Molski’s amended complaint in this case, during his travels, he stopped at the Mandarin Touch Restaurant in Solvang, California on January 25, 2003. After finishing his meal, Molski decided to use the restroom. Molski was able to

pass through the narrow restroom door, but there was not enough clear space to permit him to access the toilet from his wheelchair. Molski then exited the restroom, and in the course of doing so, got his hand caught in the restroom door, “causing trauma” to his hand. Molski’s amended complaint also alleged that Mandarin Touch contained other accessibility barriers “too numerous to list.”

Asserting claims under the ADA and California law, Molski, along with co-plaintiff Disability Rights Enforcement, Education Services: Helping You Help Others (“DREES”), a non-profit corporation, sought injunctive relief, attorneys’ fees and costs, and damages. Specifically, the complaint sought “daily damages of not less than \$4,000/day . . . for each day after [Molski’s] visit until such time as the restaurant is made fully accessible” as well as punitive damages and pre-judgment interest. The amended complaint named as defendants Mandarin Touch Restaurant, Evergreen Dynasty Corp., and Brian and Kathy McInerney.

Shortly after the defendants answered the complaint, Mandarin Touch and Evergreen Dynasty filed a motion for an order (1) declaring Molski a vexatious litigant; (2) requiring Molski to obtain the court’s permission before filing any more complaints under the ADA; and (3) imposing monetary sanctions against Molski and his counsel, Thomas E. Frankovich. Defendants Brian and Kathy McInerney did not join the motion. In a published order, the district court granted the motion in part, declaring Molski a vexatious litigant and granting the defendants’ request for a pre-filing order. *Molski v. Mandarin Touch Rest.*, 347 F. Supp. 2d 860, 868 (C.D. Cal. 2004) [hereinafter *Mandarin Touch I*].

In determining that Molski was a vexatious litigant, the district court applied the five factors set forth in the opinion of the United States Court of Appeals for the Second Circuit in *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986). Those factors are: (1) the litigant’s history of litigation

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and in particular whether it entailed vexatious, harassing, or duplicative suits; (2) the litigant's motive in pursuing the litigation, for example, whether the litigant had a good faith expectation of prevailing; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused unnecessary expense to the parties or placed a needless burden on the courts; and (5) whether other sanctions would be adequate to protect the courts and other parties. *Id.*

The district court first noted that Molski had an extensive history of litigation. *Mandarin Touch I*, 347 F. Supp. 2d at 864. While acknowledging that the fact that a plaintiff has filed a large number of suits, standing alone, does not warrant a pre-filing order, the district court noted that a large volume of suits might indicate an intent to harass defendants into agreeing to cash settlements. *Id.* The district court also noted that Molski's complaints were all textually and factually similar. *Id.* While again not entirely dispositive, the district court surmised that boilerplate complaints might indicate an intent to harass defendants. *Id.*

Against this background, the district court's reasoning made clear that the most important consideration was its specific finding that the allegations in Molski's numerous and similar complaints were "contrived and not credible." *See id.* The court stressed that Molski often filed multiple complaints against separate establishments asserting that Molski had suffered identical injuries at each establishment on the same day. *Id.* at 865. The district court pointed out that Molski had filed thirteen separate complaints for essentially identical injuries allegedly sustained during one five-day period in May 2003. *Id.* In particular, Molski had alleged that, at each establishment, he injured his "upper extremities" while transferring himself to a non-ADA-compliant toilet. *See id.* at 864-65. The district court explicitly found that, in making these duplicitous injury claims, Molski had "plainly lied" in his filings to the court because the district court "simply [did] not believe that Molski suffered 13 nearly identical injuries, generally to the

same part of his body, in the course of performing the same activity, over a five-day period.” *Id.* at 865, 867.

Applying the second *Safir* factor, the district court concluded that Molski’s motivation in bringing numerous suits alleging both violations of the ADA and California state civil rights laws was to extract cash settlements from defendants. *Id.* at 866-67. Although the ADA grants private plaintiffs like Molski only the rights to seek injunctive relief, attorneys’ fees, and costs, the California state civil rights laws amplify the scope of relief available under federal law by also permitting the recovery of money damages. *Compare* 42 U.S.C. §§ 2000a-3(a), 12188(a)(1), *with* Cal. Civ. Code §§ 51(f), 52(a), 54(c), 54.3(a); *see also Moeller v. Taco Bell Corp.*, 220 F.R.D. 604, 606-07 (N.D. Cal. 2004) (discussing the remedies available under California law). The district court acknowledged that raising multiple claims in one suit is, in and of itself, not vexatious. *Mandarin Touch I*, 347 F. Supp. 2d at 866. However, because Molski had tried on the merits only one of his approximately 400 suits and had settled all the others, the district court concluded that Molski’s consistent approach was to use the threat of money damages under California law to extract cash settlements and move on to his next case. *Id.*

Applying the third factor from *Safir*, the district court found that Molski had been represented by counsel in every suit he filed. *Id.* The court wrote that “courts are generally protective of *pro se* litigants,” but reasoned that “this same protection does not apply to litigants represented by counsel,” and concluded that this factor also weighed in favor of issuing a pre-filing order. *Id.*

Under the fourth *Safir* factor, the district court determined that the large number of vexatious claims Molski had filed had placed an undue burden on the courts. *Id.*

Finally, applying the fifth factor from *Safir*, the district court found that the only effective way to protect the courts

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and other parties from future vexatious litigation by Molski was by entering a pre-filing order. *Id.* Accordingly, the district court held that, “[b]efore filing any new litigation alleging violations of Title III of the ADA in the United States District Court for the Central District of California, Molski [must] file a motion for leave to file a complaint.” *Id.* at 868. The court required that Molski “submit a copy of this order and a copy of the proposed filing with every motion for leave.” *Id.*

In the same order, the district court denied the motion of Evergreen Dynasty and Mandarin Touch for sanctions as premature. *Id.* Finally, the district court issued an order to show cause why it should not impose a pre-filing sanction on Molski’s attorneys, the Frankovich Group. *Id.* at 867.

About three months later, the district court issued a published memorandum decision regarding that order to show cause. *See Molski v. Mandarin Touch Rest.*, 359 F. Supp. 2d 924 (C.D. Cal. 2005) [hereinafter *Mandarin Touch II*]. The district court imposed a pre-filing order on the Frankovich Group similar to the order that it had imposed on Molski. *Id.* at 926. In its decision, the district court first observed that in 2004 the Frankovich Group filed at least 223 nearly identical lawsuits in the Northern and Central Districts of California, that the complaints all stated an ADA claim and the same four claims under California state law, that the damages requested in each case were identical and that, other than superficial alteration of the names and facts, the complaints were textually identical down to the typos. *Id.* The district court also noted that plaintiffs represented by the Frankovich Group would often file multiple complaints regarding similar or identical injuries sustained at multiple establishments on a single day. *See id.* at 926-27. The district court noted that one-third of the suits were against ethnic restaurants and commented that “such establishments are seen as easy prey for coercive claims.” *Id.* at 926.

Supplementing its findings from its decision accompanying the pre-filing order entered against Molski, the district court

found that the Frankovich Group had filed sixteen lawsuits on Molski's behalf alleging injuries sustained over a four-day period from May 20, 2003 to May 23, 2003, all alleging that Molski suffered injuries to his upper extremities as a result of transfers or negotiating barriers. *Id.* at 928. The district court also noted that, on thirty-seven occasions in 2004 alone, Molski alleged that he had been injured two or more times on the same day. *Id.* On nineteen occasions, Molski alleged that he had been injured three or more times in one day. *Id.* And, on nine occasions in 2004, Molski alleged that he suffered four or more injuries in one day. *Id.*

Additionally, the district court discussed what it characterized as an "astonishing" letter the Frankovich Group had sent to defendants in at least two cases after suing them. *See id.* at 928. The letter described itself as "friendly advice" and counseled the unrepresented defendant against hiring a lawyer. *Id.* The letter warned that a defense attorney would embark on a "billing expedition" and that the defendant's money would be best spent on settlement and remediation of the ADA violations, rather than hiring a defense attorney. *Id.* The letter also advised the defendant that its insurance policy might cover the claim. *Id.* Finally, the letter advised the defendant that it had no bona fide defense to the lawsuit. *Id.*

Relying on its inherent power to levy sanctions, the district court ordered

that The Frankovich Group, as presently constituted, and as it may hereafter be constituted, including shareholders, associates and employees, is required to file a motion requesting leave of court before filing any new complaints alleging violations of Title III of the Americans with Disabilities Act in the United States District Court for the Central District of California. Such a motion must include a copy of this order.

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*Id.* at 926.

As the basis for its sanction, the court first emphasized the ethics rules violations contained in the letter discussed above. *Id.* at 929. For example, the letter offered legal advice to an unrepresented party whose interests conflicted with the interests of the Frankovich Group's clients. *Id.* (citing Model Rules of Prof'l Conduct R. 4.3).

Next, the district court found that many of the claims of bodily injury in complaints filed by the Frankovich Group were "contrived." *Id.* at 930. The court found in particular that "the rate of physical injury defies common sense," noting that the plaintiffs alleged similar injuries sustained in a similar fashion at different businesses on the same day. *Id.* The court noted that the similar injuries did not excuse the existence of accessibility barriers, but that its finding that the injury claims were contrived was "merely a recognition of the fact that reasonable people, once injured, tend to take affirmative steps to avoid similar physical injuries, rather than repeat that same activity 400 times (or five times in the same day)." *Id.* at 931.

The district court also criticized the practice of the Frankovich Group of waiting one year before filing their complaints, in order to maximize the damages threatened and to intimidate the small businesses against whom the Frankovich Group frequently filed its suits. *Id.* at 932.

Finally, the district court found that the high settlement rate in cases brought by the Frankovich Group, coupled with the volume of cases filed, showed a pattern of extortion. *Id.* at 933-34.

In addition to imposing a pre-filing order on the Frankovich Group, the district court requested that the California state bar investigate the Frankovich Group's practices and consider disciplinary action. *Id.* In the same order, the district court

dismissed the plaintiffs' state law claims, declining to exercise supplemental jurisdiction over them. *Id.* at 937.

On August 31, 2005, the district court, in a third published order, granted the defendants summary judgment on Molski's ADA claim for lack of standing. *Molski v. Mandarin Touch Rest.*, 385 F. Supp. 2d 1042, 1044 (C.D. Cal. 2005). Because Molski's ADA claim was the final claim remaining in the case, the district court also entered an order dismissing with prejudice the plaintiffs' case in its entirety. *Id.* at 1048. (The district court had already dismissed DRESS's ADA claim for lack of standing in an unpublished order filed on February 9, 2005.)

On September 13, 2005, Molski and DREES filed their notice of appeal. The notice provided that the plaintiffs were appealing four rulings of the district court: (1) the December 2004 order declaring Molski a vexatious litigant; (2) the February 2005 order dismissing DREES's ADA claim for lack of standing; (3) the March 2005 order sanctioning the Frankovich Group;<sup>1</sup> and (4) the August 2005 order granting the defendants summary judgment on Molski's ADA claim for lack of standing and dismissing the case.

## II

We first address whether the appeal of the pre-filing orders

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<sup>1</sup>In the notice of appeal and in their brief to this court, the Frankovich Group characterizes the order entered against it as an order declaring it a "vexatious litigant." The Frankovich Group characterizes the order in this fashion likely because we have held that "an attorney appearing on behalf of a client cannot be sanctioned as a vexatious litigant; by definition, he or she is acting as an attorney and not as a litigant." *Weissman v. Quail Lodge, Inc.*, 179 F.3d 1194, 1197 (9th Cir. 1999). However, the district court's order is an order imposing sanctions. In its order, the district court repeatedly refers to its inherent power to levy sanctions against attorneys who abuse the litigation process. See *Mandarin Touch II*, 359 F. Supp. 2d at 928-29.

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is timely. 28 U.S.C. § 2107(a) and Federal Rule of Appellate Procedure 4(a)(1)(A) provide that the notice of appeal in a civil case must be filed with the district court clerk within thirty days after the judgment or order appealed from is entered. If a party does not file a notice of appeal within the prescribed time limits, we have no jurisdiction to hear the case. *Bowles v. Russell*, 127 S. Ct. 2360, 2363-64 (2007).

Under 28 U.S.C. § 1291, parties may appeal to this court only “final decisions” of the district courts. A final decision is one that “ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.” *Cunningham v. Hamilton County*, 527 U.S. 198, 204 (1999) (internal quotation marks omitted); *Catlin v. United States*, 324 U.S. 229, 233 (1945). Neither party disputes that the August 31, 2005 order dismissing the case was an appealable final decision. However, the McInerneys argue that the December 2004 pre-filing order entered against Molski and the March 2005 pre-filing order entered against the Frankovich Group were also final decisions and therefore immediately appealable. They maintain we must dismiss the appeal because the notice of appeal, filed on September 13, 2005, was filed more than thirty days after the entry of the pre-filing orders. Conversely, Molski and the Frankovich Group argue that the only final decision in this case is the district court’s August 31, 2005 order dismissing the plaintiffs’ case in its entirety and that, because they filed a notice of appeal within thirty days of the entry of that order, their appeal is timely.

[1] The appeal of the Frankovich Group is timely under the Supreme Court’s decision in *Cunningham* and our subsequent decision in *Stanley v. Woodford*, 449 F.3d 1060 (9th Cir. 2006). In *Cunningham*, the Supreme Court held that an order imposing sanctions on an attorney pursuant to Federal Rule of Civil Procedure 37(a)(4) was not an immediately-appealable “final decision.” 527 U.S. at 200. In *Stanley*, we extended *Cunningham* and held that we do not have jurisdiction to entertain interlocutory appeals of district court orders sanc-

tioning attorneys pursuant to the district court's inherent power to levy sanctions.<sup>2</sup> *Stanley*, 449 F.3d at 1065. In this case, the district court entered the pre-filing order against the Frankovich Group under its inherent sanctioning power. *Mandarin Touch II*, 359 F. Supp. 2d at 928. Because the Frankovich Group could not immediately appeal the pre-filing order entered against it, and because it filed its notice of appeal within thirty days of the district court's August 31, 2005 order dismissing the entire case, its appeal is timely.

[2] Molski's appeal is also timely. As a general matter, a district court order imposing sanctions on a party is not appealable before the entry of a final judgment. *See Riverhead Sav. Bank v. Nat'l Mortg. Equity Corp.*, 893 F.2d 1109, 1113 (9th Cir. 1990); *Johnny Pflocks, Inc. v. Firestone Tire & Rubber Co.*, 634 F.2d 1215, 1216 (9th Cir. 1980). However, we have not previously and specifically addressed whether pre-filing orders entered against vexatious litigants are immediately-appealable final decisions. As far as we can tell, no other circuit has considered this question either. We begin with the general presumption that "an appeal ordinarily will not lie until after final judgment has been entered in a case." *Cunningham*, 527 U.S. at 203. For vexatious litigant orders to be appealable immediately, then, those orders would have to fall within the small category of decisions in which appeal is grounded on the collateral order doctrine which permits immediate appeal of orders that are conclusive and that cannot be effectively reviewed on the appeal of the final judgment. *Swint v. Chambers County Comm'n*, 514 U.S. 35, 42 (1995).

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<sup>2</sup>Prior to *Cunningham*, we had permitted interlocutory appeals of sanctions orders entered against attorneys. *See, e.g., Telluride Mgmt. Solutions, Inc. v. Telluride Inv. Group*, 55 F.3d 463, 465 (9th Cir. 1995); *Reygo Pac. Corp. v. Johnston Pump Co.*, 680 F.2d 647, 648 (9th Cir. 1982); *see also Stanley*, 449 F.3d at 1063 (noting that "*Cunningham* effectively overruled earlier Ninth Circuit decisions allowing immediate appeal by attorneys from orders imposing sanctions").

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[3] As we see it, pre-filing orders entered against vexatious litigants are not conclusive and can be reviewed and corrected (if necessary) after final judgment. Though during the pendency of the appeal, the order might delay or prohibit a litigant from filing claims without leave of court, we have the authority to vacate the order entirely if we conclude the order was unjustified on the merits. *Johnny Pflocks*, 634 F.2d at 1216. Moreover, allowing immediate appeals of pre-filing orders would permit piecemeal appeals and result in a costly succession of appeals from the district court's rulings before entry of final judgment. *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 374 (1981). We see no good reason to part ways from our case law holding that sanctions orders entered against a party are not immediately appealable, and we hold that pre-filing orders entered against vexatious litigants are also not immediately appealable. Because Molski filed his notice of appeal within thirty days of the district court's August 31, 2005 order dismissing the plaintiffs' entire case, Molski's appeal is timely.

### III

[4] Before we address the merits of the pre-filing orders, we must address a second jurisdictional issue. Brian and Kathy McInerney ask us to dismiss them from this appeal because they were not parties to the motion that led to the pre-filing orders entered against Molski and the Frankovich Group. Because Article III limits our jurisdiction to "cases" and "controversies," we dismiss appeals as moot when "the parties lack a cognizable interest in the outcome of the suit." *H.C. v. Koppel*, 203 F.3d 610, 612 (9th Cir. 2000); *see City of Erie v. Pap's A.M.*, 529 U.S. 277, 287 (2000); *Powell v. McCormack*, 395 U.S. 486, 496 (1969). As noted above, the plaintiffs initially appealed four rulings of the district court: the two pre-filing orders and the two orders dismissing Molski and DREES's claims for lack of standing. However, in their briefs, Molski and the Frankovich Group limit their

arguments to the two pre-filing orders entered against them.<sup>3</sup> The McInerneys were not a party to the motion that led to the pre-filing orders that now form the sole basis of the appeal in this case. *See Mandarin Touch I*, 347 F. Supp. 2d at 861. The McInerneys thus have no cognizable interest in whether we affirm or vacate the pre-filing orders, and there is no justiciable dispute between the McInerneys and Molski and the Frankovich Group. We dismiss Brian and Kathy McInerney from this appeal for lack of jurisdiction.

#### IV

We next address whether the district court erred in declaring Molski a vexatious litigant and in entering a pre-filing order against him. Two district courts in our circuit disagree about whether Molski's frequent litigation is vexatious. In this case, the Central District of California deemed Molski a vexatious litigant. *See Mandarin Touch I*, 347 F. Supp. 2d at 868. However, the Northern District of California has denied a motion to declare Molski a vexatious litigant in that district. *See Molski v. Rapazzini Winery*, 400 F. Supp. 2d 1208, 1212 (N.D. Cal. 2005). We review a pre-filing order entered against a vexatious litigant for abuse of discretion. *De Long v. Hennessey*, 912 F.2d 1144, 1146 (9th Cir. 1990). A district court abuses its discretion when it bases its decision on an incorrect view of the law or a clearly erroneous finding of fact. *United States v. Finley*, 301 F.3d 1000, 1007 (9th Cir. 2002); *Does 1-5 v. Chandler*, 83 F.3d 1150, 1152 (9th Cir. 1996).

The All Writs Act, 28 U.S.C. § 1651(a), provides district

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<sup>3</sup>In their reply brief, Molski and the Frankovich Group state:

Since the filing of their Notice of Appeal, appellants have narrowed the issues for appeal, and through their opening brief seek this Court's review of two of the lower court's orders—the order deeming appellant Jarek Molski a vexatious litigant and the order imposing a pre-filing petition sanction on appellant Thomas E. Frankovich, A Professional Law Corporation.

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courts with the inherent power to enter pre-filing orders against vexatious litigants. *Weissman v. Quail Lodge Inc.*, 179 F.3d 1194, 1197 (9th Cir. 1999). However, such pre-filing orders are an extreme remedy that should rarely be used. *De Long*, 912 F.2d at 1147. Courts should not enter pre-filing orders with undue haste because such sanctions can tread on a litigant's due process right of access to the courts. *Cromer v. Kraft Foods N. Am., Inc.*, 390 F.3d 812, 817 (4th Cir. 2004); *Moy v. United States*, 906 F.2d 467, 470 (9th Cir. 1990); *see also Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 429 (1982) (noting that the Supreme Court "traditionally has held that the Due Process Clauses protect civil litigants who seek recourse in the courts, either as defendants hoping to protect their property or as plaintiffs attempting to redress grievances"); 5A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1336.3, at 698 (3d ed. 2004). A court should enter a pre-filing order constraining a litigant's scope of actions in future cases only after a cautious review of the pertinent circumstances.

Nevertheless, "[f]lagrant abuse of the judicial process cannot be tolerated because it enables one person to preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants." *De Long*, 912 F.2d at 1148; *see O'Loughlin v. Doe*, 920 F.2d 614, 618 (9th Cir. 1990). Thus, in *De Long*, we outlined four factors for district courts to examine before entering pre-filing orders. First, the litigant must be given notice and a chance to be heard before the order is entered. *De Long*, 912 F.2d at 1147. Second, the district court must compile "an adequate record for review." *Id.* at 1148. Third, the district court must make substantive findings about the frivolous or harassing nature of the plaintiff's litigation. *Id.* Finally, the vexatious litigant order "must be narrowly tailored to closely fit the specific vice encountered." *Id.*

The district court in this case did not apply the factors we outlined in *De Long*. Instead, the district court looked to Sec-

ond Circuit case law for guidance, applying that circuit's vexatious litigant standard as outlined in *Safir*. See *Mandarin Touch I*, 347 F. Supp. 2d at 863-64. Molski argues that the district court erred by structuring its analysis around the *Safir* factors rather than the factors we have identified.

[5] One district court in our circuit has correctly observed that the *Safir* factors "have never been adopted by the Ninth Circuit." *Doran v. Vicorp Rests., Inc.*, 407 F. Supp. 2d 1115, 1117 n.3 (C.D. Cal. 2005); see also *Wilson v. Pier 1 Imports (US), Inc.*, 411 F. Supp. 2d 1196, 1198 (E.D. Cal. 2006) (noting that the Ninth Circuit has developed a vexatious litigant standard separate from *Safir*). However, the Second Circuit's standard is not irreconcilable with our standard, but rather can be viewed as a tool for analyzing some of the factors we set forth in *De Long*, insofar as *Safir* and *De Long* in substance cover much of the same ground. As we noted above, we held in *De Long* that district courts considering imposing a pre-filing order on a vexatious litigant should consider four factors. The first two requirements, (1) notice and an opportunity to be heard and (2) the creation of an adequate record, are procedural considerations—that is, the factors define "[a] specific method or course of action" that district courts should use to assess whether to declare a party a vexatious litigant and enter a pre-filing order. *Black's Law Dictionary* 1241 (8th ed. 2004). The latter two factors, requiring (3) findings of frivolousness or harassment and (4) that the order be narrowly tailored to prevent the litigant's abusive behavior, are substantive considerations—that is, the factors help the district court define who is, in fact, a "vexatious litigant" and construct a remedy that will stop the litigant's abusive behavior while not unduly infringing the litigant's right to access the courts.

The Second Circuit, by contrast, has instructed district courts, in determining whether to enter a pre-filing order, to look at five factors:

- (1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or dupli-

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tive lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties.

*Safir*, 792 F.2d at 24. These five factors are substantive in that they all address whether a party is a vexatious litigant and whether a pre-filing order will stop the vexatious litigation or if other sanctions are adequate. The Second Circuit has held that district courts should use the five *Safir* factors to answer the ultimate substantive issue in resolving a motion for a pre-filing order: "whether a litigant who has a history of vexatious litigation is likely to continue to abuse the judicial process and harass other parties." *Id.*; *see also Cromer*, 390 F.3d at 818 (using the *Safir* factors to "determin[e] whether a pre-filing injunction is substantively warranted").

**[6]** Thus, the Second Circuit's five-factor standard provides a helpful framework for applying the two substantive factors (factors three and four) of our own four-factor standard. *See Rapazzini Winery*, 400 F. Supp. 2d at 1210 ("The *Safir* test[']s examination of history of litigation, motive, and needless burden [is] useful in determining whether the current filings are frivolous and the question of whether other sanctions are adequate [is] similar to the Ninth Circuit's requirement that any pre-filing order be narrowly tailored."). While we structure our analysis here around the four factors we outlined in *De Long*, it was not reversible error for the district court to structure its analysis around the similar factors identified by the Second Circuit.<sup>4</sup>

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<sup>4</sup>Because the facts underlying the district court's imposition of the pre-filing order on Molski are undisputed, we could decide the merits of this appeal even if the district court had applied an incorrect legal standard. *See Pullman-Standard v. Swint*, 456 U.S. 273, 292 (1982); *Kelley v. S. Pac. Co.*, 419 U.S. 318, 331-332 (1974).

[7] The first factor under *De Long* is whether Molski was given notice and an opportunity to be heard before the district court entered the pre-filing order. This is a core requirement of due process. *De Long*, 912 F.2d at 1147. In this case, Molski had fair notice of the possibility that he might be declared a vexatious litigant and have a pre-filing order entered against him because the district court's order was prompted by a motion filed by the defendants and served on Molski's counsel. Also, Molski had the opportunity to oppose the motion, both in writing and at a hearing. *Cf. Pac. Harbor Capital, Inc. v. Carnival Air Lines, Inc.*, 210 F.3d 1112, 1118 (9th Cir. 2000) (holding, in a case involving sanctions levied against an attorney, that "an opportunity to be heard does not require an oral or evidentiary hearing on the issue," but instead that "[t]he opportunity to brief the issue fully satisfies due process requirements").

[8] The second factor of the *De Long* standard is whether the district court created an adequate record for review. "An adequate record for review should include a listing of all the cases and motions that led the district court to conclude that a vexatious litigant order was needed." *De Long*, 912 F.2d at 1147. The record before the district court contained a complete list of the cases filed by Molski in the Central District of California, along with the complaints from many of those cases. Although the district court's decision entering the pre-filing order did not list every case filed by Molski, it did outline and discuss many of them. *See Mandarin Touch I*, 347 F. Supp. 2d at 864-65. The district court supplemented its findings in *Mandarin Touch I* with a further discussion of Molski's litigation history in *Mandarin Touch II*. *See Mandarin Touch II*, 359 F. Supp. 2d at 927-28. The district court compiled a record adequate for review of its order.

The third factor set forth by *De Long* gets to the heart of the vexatious litigant analysis, inquiring whether the district court made "'substantive findings as to the frivolous or harassing nature of the litigant's actions.'" *De Long*, 912

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F.2d at 1148 (quoting *In re Powell*, 851 F.2d 427, 431 (D.C. Cir. 1988)). To decide whether the litigant's actions are frivolous or harassing, the district court must "look at 'both the number and content of the filings as indicia' of the frivolousness of the litigant's claims." *Id.* (quoting *Powell*, 851 F.2d at 431). "An injunction cannot issue merely upon a showing of litigiousness. The plaintiff's claims must not only be numerous, but also be patently without merit." *Moy*, 906 F.2d at 470.

**[9]** Molski concedes that he has filed numerous claims. However, Molski contends that his suits were not vexatious because they had merit. As the district court observed, it is likely that many of the businesses Molski sued were not in compliance with the ADA. *Mandarin Touch I*, 347 F. Supp. 2d at 865. However, while Molski's complaints may have stated a legitimate claim for relief, it was not clearly erroneous for the district court to find that the claims of injury contained in those complaints were patently without merit. Because many of the violations Molski challenged were similar, it would have been reasonable for Molski's complaints to contain similar allegations of barriers to entry, inadequate signage, and so on. However, it is very unlikely that Molski suffered the same injuries, often multiple times in one day, performing the same activities—transferring himself from his wheelchair to the toilet or negotiating accessibility obstacles. Common sense dictates that Molski would have figured out some way to avoid repetitive injury-causing activity; even a young child who touches a hot stove quickly learns to avoid pain by not repeating the conduct. The district court's conclusion that Molski "plainly lied" in making his injury allegations was not clearly erroneous.

**[10]** In light of the district court's finding that Molski did not suffer the injuries he claimed, it was not clearly erroneous for the district court to conclude that the large number of complaints filed by Molski containing false or exaggerated allegations of injury were vexatious.

[11] The district court's determination that Molski harassed defendants into cash settlements was justified by its findings regarding Molski's litigation strategy. California law provides that a plaintiff who suffers discrimination based on his or her disability may recover up to three times the amount of actual damages for each offense, and that, at a minimum, the plaintiff must recover damages of not less than \$4000. Cal. Civ. Code § 52(a). Thus, Molski usually sought damages of not less than \$4000 for each day that a facility did not comply with the ADA. Because Molski would often wait to file suit until a full year elapsed since his visit to the defendants' establishments, defendants often faced claims for statutory damages of over one million dollars. While Molski's claim for daily damages might have been legally justified,<sup>5</sup> it was not clearly erroneous for the district court to find that Molski's litigation strategy evidenced an intent to harass businesses into cash settlements.<sup>6</sup>

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<sup>5</sup>District courts in our circuit disagree about whether a plaintiff may seek daily damages under California Civil Code sections 52(a) and 54.3(a). *Compare Rapazzini Winery*, 400 F. Supp. 2d at 1211 (holding that daily damages are not available under section 52(a)), and *Doran v. Embassy Suites Hotel*, No. C-02-1961, 2002 WL 1968166, at \*6 (N.D. Cal. Aug. 26, 2002) (holding that daily damages are not available under either section 52(a) or 54.3(a)), with *Botosan v. Fitzhugh*, 13 F. Supp. 2d 1047, 1051-52 (S.D. Cal. 1998) (holding that an allegation that a plaintiff "is being subjected to a discrimination" meant that the plaintiff had been deterred from visiting a public accommodation on a daily basis, and supported a claim for daily damages under sections 52(a) and 54.3(a)); *see also Arnold v. United Artists Theatre Circuit, Inc.*, 866 F. Supp. 433, 439 (N.D. Cal. 1994) (suggesting that a plaintiff can claim damages under sections 52(a) and 54.3(a) for each particular occasion of deterrence). We could not find any California court that has spoken on this issue.

<sup>6</sup>We note that there was a substantial disconnect between the magnitude of injuries Molski suffered and the amount of damages he sought to recover. For example, in this case, in a declaration submitted to the district court, Molski admitted that the injury he suffered at Mandarin Touch—scraping his hand on the door frame—was "not a big injury." Nonetheless, Molski claimed damages of "not less than \$4,000" for each of the 363 days that elapsed between when he visited Mandarin Touch on January 25,

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[12] The district court also did not err when it inferred an intent to harass defendants into settlement from the fact that Molski had tried on the merits only one of his roughly 400 ADA cases and the fact that Molski and the Frankovich Group targeted ethnic restaurants viewed as easy prey for coercive claims.

Frivolous litigation is not limited to cases in which a legal claim is entirely without merit. It is also frivolous for a claimant who has some measure of a legitimate claim to make false factual assertions. Just as bringing a completely baseless claim is frivolous, so too a person with a measured legitimate claim may cross the line into frivolous litigation by asserting facts that are grossly exaggerated or totally false. In an adversary system, we do not fault counsel or client for putting their

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2003, and when he filed his complaint on January 23, 2004. Molski thus made a damage claim of no less than \$1,452,000 on the day he filed his complaint, with that amount growing by the day. Even if Molski could claim statutory minimum damages in an amount far greater than any actual injury he suffered, *see Continental Cablevision, Inc. v. Poll*, 124 F.3d 1044, 1049 (9th Cir. 1997) (suggesting that statutory damages do not require proof of injury); *Six (6) Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1306 (9th Cir. 1990) (same), Molski's claims of damages far in excess of the injuries he suffered are not entirely irrelevant to determining whether his litigation was vexatious.

By seeking damages of *not less than* \$4000 per day, Molski would claim actual damages beyond those to which he was arguably entitled under the California statutes. *See Cal. Civ. Code §§ 52(a), 54.3(a)* (permitting the recovery of actual damages). Also, there existed a possibility that the district court would reject the notion that Molski could recover daily damages, *see supra* note 5, and that Molski would be forced to seek, for the most part, actual damages. Additionally, Molski's complaints usually sought punitive damages. In all of those situations, to recover actual or punitive damages, Molski would need to prove a corresponding injury. *Cf. Continental Cablevision, Inc.*, 124 F.3d at 1049; *Six (6) Mexican Workers*, 904 F.2d at 1306. Because he claimed damages far in excess of his actual injuries, his exaggerated claims of damages support a pre-filing order to the extent that he sought to recover more than the statutory minimum of damages.

best arguments forward, and it is likely the unusual case in which a finding of frivolous litigation follows in the train of a legitimate legal claim. It is a question of degree where the line falls between aggressive advocacy of legitimate claims and the frivolous assertion of false allegations. In this case, the district court, looking at the allegations of hundreds of lawsuits, made a decision that Molski's baseless and exaggerated claims of injuries exceeded any legitimacy and were made for the purpose of coercing settlement. We cannot on this record conclude that the district court's factual determinations were clearly erroneous or that the district court erroneously reached the legal conclusion that Molski's litigation was vexatious.

[13] The fourth and final factor in the *De Long* standard is that the pre-filing order must be narrowly tailored to the vexatious litigant's wrongful behavior. In *De Long*, we held overbroad an order preventing the plaintiff from filing any suit in a particular district court. *De Long*, 912 F.2d at 1148. Likewise, in *O'Loughlin*, we held that an order requiring a plaintiff to show good cause before making any request to proceed in forma pauperis was not narrowly tailored. *O'Loughlin*, 920 F.2d at 618. Also, in *Moy* we held that an order requiring a plaintiff to obtain leave of court to file any suit was overly broad when the plaintiff had only been highly litigious with one group of defendants. *Moy*, 906 F.2d at 470. Here, by contrast, the district court's order is much narrower—it only prevents Molski from filing actions under Title III of the ADA in the Central District of California. The order thus appropriately covers only the type of claims Molski had been filing vexatiously—ADA claims. Cf. *Cromer*, 390 F.3d at 818-19 (vacating a pre-filing order that prevented the plaintiff from making "any and all filings" in the present case and also enjoined him from making any future filings in any unrelated case in the district court without obtaining permission from the magistrate judge who issued the order); *In re Packer Ave. Assocs.*, 884 F.2d 745, 748 (3d Cir. 1989) (vacating as not narrowly tailored a pre-filing order "prohibiting a litigant

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from ever again filing a document in federal court"). The order also does not prevent Molski from filing any ADA complaints, it merely subjects Molski's complaints to an initial screening review by a district judge. The order is narrowly tailored because it will not deny Molski access to courts on any ADA claim that is not frivolous, yet it adds a valuable layer of protection, which we think was warranted, for the courts and those targeted by Molski's claims. *See Franklin v. Murphy*, 745 F.2d 1221, 1232 (9th Cir. 1984).

In summary, we reemphasize that the simple fact that a plaintiff has filed a large number of complaints, standing alone, is not a basis for designating a litigant as "vexatious." *De Long*, 912 F.2d at 1147; *In re Oliver*, 682 F.2d 443, 446 (3d Cir. 1982). We also emphasize that the textual and factual similarity of a plaintiff's complaints, standing alone, is not a basis for finding a party to be a vexatious litigant. Accessibility barriers can be, and often are, similar in different places of public accommodation, and there is nothing inherently vexatious about using prior complaints as a template. *See Wilson*, 411 F. Supp. 2d at 1196 (stating that uniform instances of misconduct can justify uniform pleadings).

As we discussed above, the ADA does not permit private plaintiffs to seek damages, and limits the relief they may seek to injunctions and attorneys' fees. We recognize that the unavailability of damages reduces or removes the incentive for most disabled persons who are injured by inaccessible places of public accommodation to bring suit under the ADA. *See* Samuel R. Bagenstos, *The Perversity of Limited Civil Rights Remedies: The Case of "Abusive" ADA Litigation*, 54 U.C.L.A. L. Rev. 1, 5 (2006). As a result, most ADA suits are brought by a small number of private plaintiffs who view themselves as champions of the disabled. District courts should not condemn such serial litigation as vexatious as a matter of course. *See De Long*, 912 F.2d at 1148 n.3. For the ADA to yield its promise of equal access for the disabled, it may indeed be necessary and desirable for committed individ-

uals to bring serial litigation advancing the time when public accommodations will be compliant with the ADA. But as important as this goal is to disabled individuals and to the public, serial litigation can become vexatious when, as here, a large number of nearly-identical complaints contain factual allegations that are contrived, exaggerated, and defy common sense. False or grossly exaggerated claims of injury, especially when made with the intent to coerce settlement, are at odds with our system of justice, and Molski's history of litigation warrants the need for a pre-filing review of his claims.

**[14]** We acknowledge that Molski's numerous suits were probably meritorious in part—many of the establishments he sued were likely not in compliance with the ADA. On the other hand, the district court had ample basis to conclude that Molski trumped up his claims of injury. The district court could permissibly conclude that Molski used these lawsuits and their false and exaggerated allegations as a harassing device to extract cash settlements from the targeted defendants because of their noncompliance with the ADA. In light of these conflicting considerations and the relevant standard of review, we cannot say that the district court abused its discretion in declaring Molski a vexatious litigant and in imposing a pre-filing order against him.

## V

The final issue in this case is whether the district court erred in imposing a pre-filing order against the Frankovich Group. We review the district court's imposition of sanctions against an attorney for abuse of discretion. *Weissman*, 179 F.3d at 1197; *Yagman v. Republic Ins.*, 987 F.2d 622, 628 (9th Cir. 1993). “A district court abuses its discretion in imposing sanctions when it bases its decision ‘on an erroneous view of the law or on a clearly erroneous assessment of the evidence.’” *Mark Indus., Ltd. v. Sea Captain’s Choice, Inc.*, 50 F.3d 730, 732 (9th Cir. 1995) (quoting *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 405 (1990)).

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The district court in this case sanctioned the Frankovich Group with a pre-filing order pursuant to its inherent power to regulate abusive or bad-faith litigation. *Mandarin Touch II*, 359 F. Supp. 2d at 928; *see Chambers v. NASCO, Inc.*, 501 U.S. 32, 43-44 (1991); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 632 (1962). “This inherent power derives from the lawyer’s role as an officer of the court which granted admission.” *In re Snyder*, 472 U.S. 634, 643 (1985) (citations omitted). The Supreme Court has cautioned that, because of the potency of attorney sanction orders, courts must exercise their inherent sanctioning authority with restraint and sound discretion. *Chambers*, 501 U.S. at 45; *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764 (1980).

As a procedural matter, before imposing sanctions on an attorney, the district court must afford the attorney notice and an opportunity to be heard. *Weissman*, 179 F.3d at 1198. As a substantive matter, justifications for imposing a pre-filing sanction on an attorney “include the attorney’s willful abuse of the judicial process, bad faith conduct during litigation, or filing frivolous papers.” *Id.* (citations and internal quotation marks omitted). Violations of ethics rules can also serve as a ground for imposing sanctions. *See, e.g., Gomez v. Vernon*, 255 F.3d 1118, 1134 (9th Cir. 2001); *Erickson v. Newmar Corp.*, 87 F.3d 298, 303 (9th Cir. 1996); *see also* C.D. Cal. Local R. 83-3.1.2 (providing that attorneys practicing in the district court must comply with the Rules of Professional Conduct of the State Bar of California, that any violation of those rules “may be the basis for the imposition of discipline,” and that the Model Rules of Professional Conduct of the American Bar Association may also be considered as guidance when disciplining attorneys). Additionally, the sanction imposed must be tailored to curtail the attorney’s particular misconduct. *Chambers*, 501 U.S. at 57; *Support Sys. Int’l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995) (per curiam); *Orlett v. Cincinnati Microwave, Inc.*, 954 F.2d 414, 420 (6th Cir. 1992).

In this case, the district court afforded the Frankovich Group notice and an opportunity to be heard before imposing its sanction. On December 10, 2004, the district court issued an order to show cause why the court should not impose a pre-filing order on the Frankovich Group for its role in facilitating Molski's litigation. *Mandarin Touch I*, 347 F. Supp. 2d at 867. The Frankovich Group responded to the order in writing, and on February 7, 2005, the district court conducted a hearing on the order. These proceedings provided the Frankovich Group the notice and opportunity to be heard that due process requires. *See Pac. Harbor Capital*, 210 F.3d at 1118; *Weissman*, 179 F.3d at 1198.

The district court also did not abuse its discretion in making the substantive determination that a pre-filing order was justified based on the conduct of the Frankovich Group. As discussed above, Molski's complaints repeatedly alleged injuries that the district court found to be contrived and untrue. Also, the claims of injuries often were inconsistent with the barriers alleged. For example, complaints filed by the Frankovich Group would allege bodily injury suffered as a result of inadequate signage or the lack of an accessible parking space.

[15] In light of the similarity and exaggerated nature of the frequent injuries Molski alleged, we concluded above that the district court's findings regarding the lack of veracity in Molski's complaints were not clearly erroneous and that the district court was within its discretion in imposing a pre-filing order on Molski. When a client stumbles so far off the trail, we naturally should wonder whether the attorney for the client gave inadequate or improper advice. That the Frankovich Group filed numerous complaints containing false factual allegations, thereby enabling Molski's vexatious litigation, provided the district court with sufficient grounds on which to base its discretionary imposition of sanctions. *Weissman*, 179 F.3d at 1198.

The district court also emphasized that the letter that the Frankovich Group sent to the defendants in at least two cases

may have violated multiple ethics rules. While we do not rely on the possible ethical violations as a ground for affirming the sanction imposed on the Frankovich Group, we note that Frankovich Group's decision to send letters that many might view as intimidating to unrepresented defendants was, at best, a questionable exercise of professional judgment. The letters gave legal advice to unrepresented parties whose interests conflicted with the interests of the Frankovich Group, and this advice quite possibly ran afoul of relevant ethical rules. *See* Model Rules of Prof'l Conduct R. 4.3 ("The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client."); Model Code of Prof'l Responsibility DR 7-104(A)(2) (providing that "a lawyer shall not . . . [g]ive advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of his client").

Additionally, the letters advised the defendant that it had no bona fide defense to the ADA action, when in fact this might not be true in a particular case. For example, the ADA requires the removal of barriers in certain structures only when "such removal is readily achievable." 42 U.S.C. § 12182(b)(2)(A)(iv). This possibly false statement of law may have violated ethics provisions regarding a lawyer's candor to third parties. *See* Model Rules of Prof'l Conduct R. 4.1(a) (providing that "[i]n the course of representing a client a lawyer shall not knowingly . . . make a false statement of material fact or law to a third person"); Model Code of Prof'l Responsibility DR 7-102(A)(5).

The advice that the defendant might have insurance covering the alleged ADA violation might also have violated Model Rule 4.1(a) and Disciplinary Rule 7-102(A)(5) because California courts have held that an insurance company has no

contractual duty to defend in an ADA suit alleging that a defendant's facilities were inaccessible. *See Modern Dev. Co. v. Navigators Ins. Co.*, 111 Cal. App. 4th 932, 943 (2002). But because the district court was within its discretion in sanctioning the Frankovich Group based on the questionable allegations of physical injury in the complaints they filed, we need not rely on the possible ethics rules violations as a ground for affirming the district court's sanction.<sup>7</sup>

**[16]** Finally, we hold that the district court's pre-filing sanction is sufficiently tailored to combat the Frankovich Group's practice of repetitive litigation based on false allegations of injury. The sanction requires the Frankovich Group to seek leave of the court before filing any more ADA complaints in the Central District of California, and requires that the district court's order in this case accompany the Frankovich Group's motion for leave. Functionally, the sanction ensures that a judge will initially determine whether the factual allegations in future complaints are colorable. The order will protect against the extracting of possibly unjustified settlements from uncounseled small-business defendants intimidated by the spectre of a federal complaint coupled with a coercive and misleading communication from a law firm. However, the order does not make it impossible for the Frankovich Group to pursue meritorious ADA litigation in the district court. *See Franklin*, 745 F.2d at 1232. Moreover, as far as the evidence before the district court showed, the Frankovich Group only used abusive litigation tactics in connection with litigation under the ADA. The pre-filing order rightly applies only to complaints asserting claims for relief

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<sup>7</sup>Because we do not need to rely on the possibility of ethical rule violations to sustain the district court's pre-filing order against the Frankovich Group, and we decline to do so, we also do not make an ultimate determination whether or not any ethical rule violations occurred. As a general matter, decisions on whether lawyers have violated their ethical obligations are best made in the context of formal bar association proceedings where procedural due process protects the lawyer's rights while assessing any harm to the public.

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under the ADA. *See De Long*, 912 F.2d 1148; *O'Loughlin*, 920 F.2d at 618. For these reasons, we hold that the pre-filing order imposed in this case is adequately tailored to punish the past sanctionable conduct of the Frankovich Group, and, more importantly, to protect the courts and the public from any future misconduct by that law firm.<sup>8</sup> Lawyers are required to give their clients' interests zealous advocacy, and while the pre-filing order in this case will not stand in the way of advocacy for legitimate claims, it will help to ensure that the services of the Frankovich Group are used in support of valid claims and not as a device to encourage settlement of unwarranted or exaggerated claims. We affirm the district court's order imposing sanctions on the Frankovich Group.

## VI

In summary, we dismiss defendants Brian and Kathy McInerney from this appeal for lack of jurisdiction. We affirm the district court's order declaring Molski a vexatious litigant and requiring him to obtain leave of the court before filing another ADA complaint in the Central District of California. We also affirm the district court's order sanctioning the Frankovich Group and imposing a similar pre-filing order on it. Costs are awarded to the appellees.

## **AFFIRMED IN PART, DISMISSED IN PART.**

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<sup>8</sup>District courts have broad discretion in fashioning sanctions. *Leon v. IDX Sys. Corp.*, 464 F.3d 951, 961 (9th Cir. 2006); *Ritchie v. United States*, 451 F.3d 1019, 1026 (9th Cir. 2006); *Falstaff Brewing Corp. v. Miller Brewing Co.*, 702 F.2d 770, 786 (9th Cir. 1983) (Wallace, J., dissenting in part). Permissible sanctions when vexatious litigation is encountered may include not only a pre-filing order, but also monetary sanctions or even the ultimate sanction of dismissal of claims. We do not here hold that, if a court encounters vexatious litigation, a pre-filing order is the only permissible form of sanction. Rather, the district court may exercise its sound discretion under the facts presented to choose any appropriate sanction that will punish the past misconduct and prevent the future misconduct of the lawyer or party at issue.

## PROOF OF SERVICE

I, the undersigned, declare as follows:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen (18) and am not a party to this action. My business address is 1374 Pacific Avenue, San Francisco, California 94109.

On the date set forth below, I served the document(s) entitled:

**DEFENDANT PURGATORY INC.'S NOTICE OF RELATED CASES**

on the parties in this action and the interested parties in the putative related pending cases as follows:

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X [BY MAIL] I placed the above document(s) in an envelope which was sealed, with postage thereon fully prepaid, and placed in the United States mail in San Francisco, California. I am "readily familiar" with the practice of The Law Offices of Frank S. Moore for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

## **San Francisco County Superior Court Litigants:**

CGC-06-452090  
*CRAIG YATES et al vs. CIGAR AMOUR et al*

CGC-06-452090  
*CRAIG YATES et al vs. CIGAR  
AMOUR et al*

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1 CGC-06-459119  
2 *CRAIG YATES et al vs. PAKWAN*  
3 *RESTAURANT et al*  
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16 CGC-07-469073  
17 *CRAIG YATES et al vs. K &L*  
18 *RESTAURANT et al*  
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CGC-07-467642  
CRAIG YATES et al vs. RICO'S  
RESTAURANT INC., A  
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1 CGC-08-473176  
 2 *CRAIG YATES vs. UNION SQUARE et al*

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 20 *CRAIG YATES et al vs. DA FLORA*  
 21 *RESTAURANT et al*

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 23 **United States District Court for the Northern District Litigants** by sending via Northern District  
 24 of California's e-filing procedure addressed as follows:

25 3:08-cv-00356-JSW *Yates et al v. Unicorn*  
 26 *Pan Asian Cuisine et al*

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3:08-cv-01403-MEJ *Ramirez et al v.*  
 Martha's Old Mexico et al

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1	4:07-cv-01537-CW Loskot et al v. University Inn et al	3:08-cv-01876-CRB Jankey et al v. King of Thai Noodle House et al
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17	YATES, et al. v. LA ROCCA'S CORNER, et al. DEFENDANT PURGATORY INC.'S NOTICE OF RELATED CASES	
18	Case No. CGC-07-469605	

1  
 2 3:07-cv-02657-JL Yates et al v. Winter  
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3:07-cv-04813-JSW Moss et al v. Molte  
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 Lorraine J. Choy  
 (Defendant)  
 Raymond G. Choy  
 (Defendant)  
 Teresa Marie Nittolo  
 (Defendant)

1 3:07-cv-04395-JCS Yates et al v. Red's  
 2 Recovery Room Inc. et al

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 12 (Defendant)

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 21 (Defendant)

22 3:07-cv-04463-JCS Ramirez et al v.  
 23 Omelette Express Inc. et al

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 42 (Defendant)

43 3:07-cv-04396-MEJ Ramirez et al v.  
 44 Union Hotel Inc. et al

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 54 m  
 55 representing Union Hotel Inc.  
 56 (Defendant)  
 57 Lucille Gonella  
 58 (Defendant)

59 3:07-cv-05485-MMC Yates et al v.  
 60 N-O-H-R Plaza et al

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 70 (Defendant)  
 71 Frank Man Wai Wong  
 72 (Defendant)  
 73 Sin Yee Wong  
 74 (Defendant)

1 3:08-cv-02164-JL Jankey et al v. Geary  
 2 Street Bella Pizza et al

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 10 (Defendant)

11 3:07-cv-04813-JSW Moss et al v. Molte  
 12 Cose et al

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 21 (Defendant)  
 22 Lorraine J. Choy  
 23 (Defendant)  
 24 Raymond G. Choy  
 25 (Defendant)  
 26 Teresa Marie Nittolo  
 27 (Defendant)

28 3:08-cv-02733-MMC Jankey et al v.  
 1 Five Happiness Restaurant Inc et al

2 Jason George Gong  
 3 Livingston Law Firm  
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 11 Restaurant Inc  
 12 (Defendant)  
 13 Mei-Mei Koo Yang  
 14 (Defendant)  
 15 William P. Yang  
 16 (Defendant)

17 3:08-cv-01403-MEJ Ramirez et al v.  
 18 Martha's Old Mexico et al

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 28 (Defendant)  
 1 Elvia Lobato  
 2 (Defendant)  
 3 Judith A. Barbieri  
 4 (Defendant)  
 5 Martha Leticia Lopez  
 6 (Defendant)  
 7 Peter R. Barbieri  
 8 (Defendant)

1 3:08-cv-01876-CRB Jankey et al v. King  
2 of Thai Noodle House et al  
3 3:08-cv-01877-WHA Yates et al v. King  
4 of Thai Noodle #2 Inc. et al  
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13 (Defendant)  
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22 (Defendant)  
23 3:08-cv-00737-JCS Yates et al v. Burger  
24 King #3157 et al  
25 Matthew Philip Harrington  
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3:08-cv-02293-PJH Yates et al v.  
Zephyr Cafe et al  
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(Defendant)  
Dong J. Homer  
(Defendant)  
Young B. Homer  
(Defendant)

1 3:07-cv-01405-WHA Yates et al v. Belli  
 2 Deli et al

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 19 (Defendant)

20 3:07-cv-02100-JSW Yates et al v. Foster  
 21 Freeze Berkeley et al

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 (Defendant)

Byung H. Yoo  
 (Defendant)  
 Grace Pak  
 (Defendant)  
 Sung C. Pak  
 (Defendant)

3:08-cv-02165-SI Yates et al v.  
 Twice is Nice et al

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 (Defendant)

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1 4:08-cv-02545-CW Yates et al v. Sushi  
 2 Bistro Inc et al

3 Jon C. Yonemitsu  
 4 Gordon & Rees LLP  
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 (Defendant)  
 Jeffery Lau  
 (Defendant)  
 Sophia Lau  
 (Defendant)

10 3:07-cv-03033-EDL Yates et al v. El  
 11 Sombrero et al

12 James J. Zenere  
 13 Sheuerman Martini & Tabari  
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 (Defendant)

3:08-cv-03004-EDL Yates et al v.  
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 (Defendant)

3:07-cv-04177-EDL Yates et al v.  
 Discount Alley Inc. et al

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 Kenneth J. McAdams  
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 Laurie A. McAdams  
 (Defendant)  
 Marc Frederick  
 (Defendant)

24

25

26

27

28

**United States District Court for the Eastern District Litigants** by sending via Eastern District of California's e-filing procedure addressed as follows:

2:07-cv-01564-FCD-EFB Chapman, et al. v.  
Subway Salads and Sandwiches #14054, et al.

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(Defendant)

representing Mary Delouize  
(Defendant)

Thereza Coughran

|| (Defendant)

Elizabeth Morell

(Defendant)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: August 29, 2008

Frank S. Moore